From: "Bruck, Andrew (ODAG)" (b) (6)
To: "Hinojosa, Xochitl (PAO)" (b) (6), "Iverson, Dena (PAO)" (b) (6), "Pietranton, Kelsey (PAO)" (b) (6)
Cc: "Dulaney, Emma (PAO)" (b) (6)
Subject: Re: Activity in Case 4:21-cr-00005-O USA v. The Boeing Company Order
Date: Thu, 05 Dec 2024 12:37:09 -0500
Importance: Normal
Attachments: Order_re_Boeing_Plea_Agreement.pdf

+Emma

On Dec 5, 2024, at 12:35 PM, Bruck, Andrew (ODAG) (b) (6) wrote:

Judge rejects Boeing plea.

Begin forwarded message:

From: "Miller, Lisa (CRM)" (b)(6); (b)(7)(C) per CRM
Date: December 5, 2024 at 12:33:50 PM EST
To: "Bruck, Andrew (ODAG)" (b) (6), "Argentieri, Nicole M. (CRM)" (b)(6); (b)(7)(C) per CRM
Subject: Fw: Activity in Case 4:21-cr-00005-O USA v. The Boeing Company Order

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From: Tonolli, Sean (CRM) (b)(6); (b)(7)(C) per CRM
Sent: Thursday, December 5, 2024 12:28:20 PM
To: Wible, Brent (CRM) (b)(6); (b)(7)(C) per CRM; Miller, Lisa (CRM) (b)(6); (b)(7)(C) per CRM; Leon, Glenn (CRM) (b)(6); (b)(7)(C) per CRM; Laryea, Lorinda (CRM) (b)(6); (b)(7)(C) per CRM
Cc: Haray, Jonathan (CRM) (b)(6); (b)(7)(C) per CRM
Subject: FW: Activity in Case 4:21-cr-00005-O USA v. The Boeing Company Order

Still reading the opinion, but the court rejected the plea for two reasons: the diversity and inclusion language, and the "marginalization of the Court" for excluding it from the monitor-selection process and oversight of the compliance obligations. We have 30 days to meet and confer and inform the court how we plan to proceed.

_____

Sean P. Tonolli
Senior Deputy Chief, Fraud Section
U.S. Department of Justice, Criminal Division
(b)(6); (b)(7)(C) per CRM (o) / (b)(6); (b)(7)(C) per CRM (c)

From: ecf_txnd@txnd.uscourts.gov <ecf_txnd@txnd.uscourts.gov>
Sent: Thursday, December 5, 2024 12:23 PM
To: Courtmail@txnd.uscourts.gov
Subject: Activity in Case 4:21-cr-00005-O USA v. The Boeing Company Order

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.
*****NOTE TO PUBLIC ACCESS USERS*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.**

If you need to know whether you must send the presiding judge a paper copy of a document that you have docketed in this case, click here: Judges' Copy Requirements. Unless exempted, attorneys who are not admitted to practice in the Northern District of Texas must seek admission promptly. Forms and Instructions found at www.txnd.uscourts.gov. If admission requirements are not satisfied within 21 days, the clerk will notify the presiding judge.

U.S. District Court

Northern District of Texas

Notice of Electronic Filing

The following transaction was entered on 12/5/2024 at 11:22 AM CST and filed on 12/5/2024
Case Name: USA v. The Boeing Company
Case Number: 4:21-cr-00005-O
Filer:
Document Number: 282

Docket Text:
ORDER as to The Boeing Company: The Court REJECTS the plea agreement (ECF No. [221]-1). In light of this decision, the parties are ORDERED to meet and confer and provide the Court with an update on how they plan to proceed in this matter no later than thirty days from the date of this order. (Ordered by Judge Reed C. O'Connor on 12/5/2024) (jnp)

4:21-cr-00005-O-1 Notice has been electronically mailed to:

Michael P Heiskell (b) (6)

Marianne Auld (b) (6)

Charles S Siegel (b) (6)

Katherine A Staton (b) (6)

Chad E Meacham-DOJ (b) (6)

Jeffrey W Hellberg, Jr (b) (6)

David J Drez, III (b) (6)

Jeremy A Fielding (b) (6)

Jason Robert Marlin (b) (6)

Warren T Burns (b) (6)

Alex C Lewis-DOJ (b) (6)

Darren P Nicholson (b) (6)

Paul G Cassell (b) (6)

Jeffrey Richard Gilmore (b) (6)

Allan Jonathan Medina-DOJ (b) (6)

Colin Patrick Benton (b) (6)

Carlos Antonio Lopez-DOJ (b) (6)

Craig S Primis (b) (6)

Evan Kwarta (b) (6)

Mary Dow (b) (6)

Anthony U Battista (b) (6)

Diana Gurfel Shapiro (b) (6)

Ian Brinton Hatch (b) (6)

Cory E Jacobs-DOJ (b) (6)

Scott Philip Armstrong (b) (6)

Michael T O'neill (b) (6)

Patrick Haney (Terminated) (b) (6)

Benjamin L Hatch (b) (6)

Brandon M Santos (b) (6)

Mark Filip (b) (6)

Nicholas Jon Ganjei (b) (6)

Erin Ressa Applebaum (b) (6)

Chase Thomas Hilton (b) (6)

Jerrob Duffy (b) (6)

Pablo Rojas (b) (6)

Kyle Kilpatrick Oxford (b) (6)

Tracy A Brammeier (b) (6)

Adrian Vuckovich (b) (6)

Katie D Bass (b) (6)

Lorinda Laryea (b) (6)

Robert A Clifford (b) (6)

Sean P. Tonolli-DOJ (b) (6)

Ralph N Dado, III (b) (6)

John R. Lausch, Jr (b) (6)

Filippo Marchino (b) (6)

Elissa Baur (b) (6)

Sanjiv N Singh (b) (6)

4:21-cr-00005-O-1 The CM/ECF system has NOT delivered notice electronically to the names listed below. The clerk's office will serve notice of court Orders and Judgments by mail as required by the federal rules. An attorney/pro se litigant is cautioned to carefully follow the federal rules (see FedRCivP 5) with regard to service of any document the attorney/pro se litigant has filed with the court. The clerk's office will not serve paper documents on behalf of an attorney/pro se litigant.

Anthony P Keyter
(b) (6) [redacted]

The following document(s) are associated with this transaction:

Document description: Main Document
Original filename:n/a
Electronic document Stamp:
[STAMP dcecfStamp_ID=1004035775 [Date=12/5/2024] [FileNumber=15962794-0] [b6ceb338043b85d0aa7cedae3d0a0469931fd2caf6e69a6d4f51b931b598eeca6dddbfae3e861d38201d44f86cc5eccae863c502ca3aeab76559fb0bdec8dea7]]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA,	§	
	§	
Plaintiff,	§	
	§	
v.	§	
	§	**Criminal Action No. 4:21-CR-5-O**
THE BOEING COMPANY,	§	
	§	
Defendant.	§	

ORDER

Years after the catastrophic Lion Air Flight JT610 and Ethiopian Airlines Flight ET302 crashes and resulting 346 deaths, the United States and The Boeing Company ("Boeing") have now reached a plea agreement, which they urge the Court to accept. Among the Court's priorities at this point is to ensure Boeing adheres to an ethics and anti-fraud compliance program overseen by an independent monitor during Boeing's probation. As explained below, the plea agreement requires the parties to consider race when hiring the independent monitor. Additionally, the plea agreement marginalizes the Court in the selection and monitoring of the independent monitor. These provisions are inappropriate and against the public interest.

The parties' plea agreement is governed by Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure.[1] A number of victims' families have objected to the plea agreement and argue it should be rejected for several reasons.[2] The Court held a hearing to permit argument on whether

[1] *See* Proposed Plea Agreement, ECF No. 221-1.
[2] *See* ECF Nos. 232, 233, 234, 235 and 236. Rini Eka A. Soegiyono, et al. (ECF Nos. 238 and 255) and the Manfredi Family (ECF Nos. 236 and 256) are additional family members joined under Naoise Connolly Ryan, et al.

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to accept or reject the plea agreement and received supplemental briefing.[3] For the following reasons, the Court **REJECTS** the plea agreement.

I. LEGAL STANDARD

If a court accepts a plea agreement made under Rule 11(c)(1)(C), it must impose the stipulated sentence. FED. R. CRIM. P. 11(c)(4). A district court has broad discretion to accept or reject a plea agreement under Rule 11(c)(1)(C). *United States v. Smith*, 417 F.3d 483, 487 (5th Cir. 2005). A conclusion that a sentence would be "one the judge deems inappropriate" is a sufficient basis to reject a plea agreement, provided the judge exercises discretion when evaluating it. *United States v. BP Prods. N. Am. Inc.*, 610 F. Supp. 2d 655, 674 (S.D. Tex. 2009) (citation omitted). This includes when a court determines a sentence is too lenient. *Smith*, 417 F.3d at 487. A court may also reject a plea agreement if it is "against the public interest." *United States v. Bean*, 564 F.2d 700, 704 (5th Cir. 1977).

If the Court decides to reject a plea agreement, it must first "inform the parties that the [C]ourt rejects the plea agreement." FED. R. CRIM. P. 11(c)(5). Second, the Court must "advise the defendant personally that the [C]ourt is not required to follow the plea agreement and give the defendant an opportunity to withdraw the plea." *Id.* Finally, the Court must "advise the defendant personally that if the plea is not withdrawn, the [C]ourt may dispose of the case less favorably toward the defendant than the plea agreement contemplated." *Id.*

II. ANALYSIS

The parties have agreed to an independent compliance monitor in the plea agreement. In general terms, the monitor will ensure Boeing implements a program designed to prevent and detect violations of U.S. fraud laws, and to ensure Boeing integrates this program throughout the

[3] *See* Min. Entry, Oct. 11, 2024, ECF No. 273.

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company. The plea agreement provides that the retention of an independent compliance monitor is a special condition of probation, meaning if Boeing fails to retain the monitor, it will violate its probation. But the plea agreement prohibits imposing as a condition of probation a requirement for Boeing to comply with the monitor's anti-fraud recommendations. Additionally, the independent monitor is selected by and reports to the Government, not the Court. Moreover, Boeing will have the opportunity to prevent the hiring of one of the six monitor candidates chosen by the Government.[4] And finally, the Government will select the independent monitor "in keeping with the Department's commitment to diversity and inclusion."[5]

A. Numerous Victims' Families Oppose the Plea Agreement's Compliance-Monitor Provisions.

The victims' families opposing the plea agreement take issue with the process for selecting the monitor and with not requiring, as a condition of its probation, Boeing's compliance with the monitor's anti-fraud recommendations.[6] They argue, in essence, that the Government has monitored Boeing since the case was filed and yet failed to ensure Boeing's compliance. Because of this failure, they contend the monitor should be selected by and report to the Court to guarantee compliance.[7]

The Government argues there should be no concern with the independent-monitor provisions because of its "proven track record of effective oversight."[8] The Government maintains its "extensive monitorship experience" will aid Boeing and the Government in navigating the

[4] Proposed Plea Agreement, ¶ 33, ECF No. 221-1.
[5] *Id.*
[6] Naoise Connolly Ryan, et al. Mot. 35–40, ECF No. 234; Arfiyandi, et al. Mot. 18–19, ECF No. 233; *see also* Manfredi Family Mot., ECF No. 236 (joining Naoise Connolly Ryan, et al.'s Motion); Rini Eka A. Soegiyono, et al. Mot., ECF No. 238 (same).
[7] Naoise Connolly Ryan, et al. Mot. 37–40, ECF No. 234; Arfiyandi, et al. Mot. 18–19, ECF No. 233.
[8] Gov't Resp. 41, ECF No. 245.

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monitorship and ensure the monitor's mandate is carried out effectively in the instant case.[9] Further, because compliance with the monitor is not a condition of probation, the Government—not the probation office—will ensure Boeing's compliance with the anti-fraud recommendations, and this will preserve the probation department's resources.[10]

Boeing does not address the objections to the selection of the monitor or the failure to make compliance with the recommendations a condition of probation. It argues instead that the Government has made significant progress to date.[11] It also contends that the scope of the monitor's authority must be focused on anti-fraud efforts and not interfere with the mandate of the Federal Aviation Administration.[12]

B. The Plea Agreement's Compliance-Monitor Provisions are Against the Public Interest.

1. Diversity and Inclusion

As with many of the plea agreement's other provisions, the victims' families strongly oppose the plea agreement's compliance-monitor requirements.[13] Among other reasons, the victims' families argue the Court should reject the plea agreement because monitor selections will be made "in keeping with the Department's commitment to *diversity* and *inclusion*."[14] After listening to arguments on this issue at the October 11, 2024, hearing, the Court requested the Government and Boeing file supplemental briefing to explain how this specific provision furthers anti-fraud and ethics compliance and how it will practically be applied to the monitor-selection process. The briefing was telling.

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[9] *Id.* at 41–42.
[10] Hr'g Tr. at 92:19–22, ECF No. 274.
[11] Boeing Resp. 27, ECF No. 246.
[12] *Id.* at 25.
[13] Naoise Connolly Ryan, et al. Mot. 35–40, ECF No. 234.
[14] *Id.* at 37 (emphasis added) (quoting Proposed Plea Agreement, ¶ 33, ECF No. 221-1).

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The Court's diversity-and-inclusion discussion focuses on the Government's supplemental briefing rather than Boeing's because the plea agreement tasks the Government with identifying the independent monitor Boeing will hire. But before turning to the Government's briefing, the Court briefly examines Boeing's briefing and internal diversity, equity, and inclusion ("DEI") policies insofar as the plea agreement authorizes it to participate in who will be hired as the monitor.

a. Boeing's DEI Policies

Boeing maintains that it will defer to the Government's commitment to diversity and inclusion and that DEI principles will not significantly affect Boeing's role in the monitor process.[15] As to its specific policies, Boeing confirms that even though it is committed to DEI goals, it does not compromise merit or talent to achieve these goals.[16] That said, Boeing's website, until *very recently*, highlighted the company's "set of aspirations" it will strive to achieve by 2025 "[t]o advance equity and diversity and build a culture of inclusion."[17] These "aspirations" included racial quotas, such as Boeing attempting to "[i]ncrease the Black representation rate in the U.S. by 20%" and "[c]lose representation gaps for historically underrepresented groups."[18] And, Boeing stated that it tied executive compensation to achieving DEI goals.[19]

[15] Boeing Suppl. Br. 2, ECF No. 279.
[16] *Id.* at 3.
[17] Before its recent changes, Boeing's previous website boasted these aspirations. *See Global Equity, Diversity & Inclusion*, BOEING, https://web.archive.org/web/20241005094602/https://www.boeing.com/sustainability/diversity-and-inclusion#Commitment.
[18] *Id.*
[19] *Global Equity, Diversity & Inclusion 2023 Report*, BOEING, 2 (2023), https://www.boeing.com/content/dam/boeing/boeingdotcom/principles/diversity-and-inclusion/assets/pdf/Boeing_GEDI_Report_FINAL.pdf ("[F]or the first time in our company's history, we tied incentive compensation to inclusion.").

Notably, after the Court issued its Order requiring supplemental briefing, Boeing removed these goals and aspirations from its website.[20] Despite these revisions to its website, Boeing did not abandon its DEI commitments in its latest briefing to the Court.[21] Policies like Boeing's have been considered evidence of discrimination in Title VII cases. *See Duvall v. Novant Health, Inc.*, 95 F.4th 778, 791 (4th Cir. 2024) (concluding that there was sufficient evidence of discrimination, including "a substantial [diversity and inclusion] initiative that called for remaking [the company's] workforce to reflect a different racial and gender makeup"). Accordingly, based on Boeing's supplemental briefing and its policies, the Court is concerned Boeing will exercise its strike of one of the Government's six chosen monitor candidates in a discriminatory manner and with racial considerations.

b. The Government's DEI Policies

Turning to the Government's policies, it maintains at the outset that its monitor-selection process "will be open to all qualified candidates" and will be "based entirely on merit."[22] The Government then walks through the numerous historical documents it asserts are relevant to the instant plea agreement's diversity-and-inclusion provision.[23] First, it provides that in March 2008, then Acting Deputy Attorney General Craig Morford issued a memo ("Morford Memo") stating in part that a monitor "must be selected based on the merits."[24] The Morford Memo also explained the monitor-selection process must "(1) select a highly qualified and respected person or entity

[20] *Compare Global Equity, Diversity & Inclusion*, BOEING, https://web.archive.org/web/20241005094602/https://www.boeing.com/sustainability/diversity-and-inclusion#Commitment *with Global Equity, Diversity & Inclusion*, BOEING, https://www.boeing.com/sustainability/diversity-and-inclusion#Commitment (last visited Nov. 27, 2024).
[21] Boeing Suppl. Br. 2–3, ECF No. 279.
[22] Gov't Suppl. Br. 1–2, ECF No. 278.
[23] *Id.* at 2–8.
[24] *Id.* at 2; *Memorandum for Heads of Department Components United States Attorneys*, U.S. DEP'T OF JUST., 3 (2008), https://www.justice.gov/sites/default/files/dag/legacy/2008/03/20/morford-useofmonitorsmemo-03072008.pdf.

based on suitability for the assignment and all of the circumstances; (2) avoid potential and actual conflicts of interests, and (3) otherwise instill public confidence by implementing the steps set forth in this Principle."[25] The Government maintains the Morford Memo essentially pressured the Department of Justice ("DOJ") to "cast a wider net when seeking qualified candidates to serve as monitors."[26] "Diversity" and "inclusion" are not mentioned in this Memo.

A decade later, DOJ's Criminal Division entered into a deferred prosecution agreement with a different corporate defendant that for the first time required monitor selections to adhere to DOJ's "commitment to diversity and inclusion."[27] In its briefing, the Government admits it is unaware of the specific policy that led to the inclusion of this sentence.[28] Six months later, then Criminal Division Assistant Attorney General Brian Benczkowski published a memorandum ("Benczkowski Memo") supplementing the Morford Memo.[29] Specifically, as to the monitor-selection process, the Benczkowski Memo articulated that "a monitor must be selected based on the unique facts and circumstances of each matter and the merits of the individual candidate."[30] Like the Morford Memo, the words "diversity" and "inclusion" were not mentioned in the Benczkowski Memo.

According to the Government though, the above-mentioned documents led to DOJ's 2023 Justice Manual Updates.[31] Specific to the monitor-selection process, DOJ clarified that "[t]he

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[25] *Id.*
[26] Gov't Suppl. Br. 3, ECF No. 278.
[27] *Id.*
[28] *Id.* at 4 ("The Government is unaware of any specific policy in effect in 2018 that required the Criminal Division to include this sentence.").
[29] *Id.*; *Memorandum from the Assistant Attorney General, Criminal Division, on the Selection of Monitors in Criminal Division Matters*, U.S. DEP'T OF JUST., 1 (2018), https://www.justice.gov/opa/speech/file/1100531/dl ("This memorandum supplements the guidance provided by the [Morford Memo].").
[30] *Memorandum from the Assistant Attorney General*, *supra* note 29, at 4.
[31] Gov't Suppl. Br. 5, ECF No. 278.

selection process must be transparent, merit-based, and conducted in a manner free from conflicts of interest."[32] Further, "[m]onitor selections shall be made in keeping with the Department's commitment to *diversity* and *inclusion*, and prosecutors should consider monitors from a *diverse* set of backgrounds."[33] This language has remained unchanged since these 2023 updates.[34] Contemporaneously, DOJ's Criminal Division published an updated policy clarifying certain aspects of the monitor-selection process.[35] One of these clarifications confirmed that "monitor selections are and will be made in keeping with the Department's commitment to *diversity, equity*, and *inclusion*."[36] The 2023 Criminal Division Policy also added that "a monitor must be selected based on the unique facts and circumstances of each matter and the merits of the individual candidate."[37]

The Government maintains the plea agreement with Boeing "adopts a monitor-selection process that adheres to the Justice Manual and the 2023 Criminal Division Policy."[38] The Government confirms that the selection process "is broadly inclusive, fair, and free from favoritism and preconceptions of who should serve."[39] In the specific context of the monitor-selection process, the Government asserts "'diversity' encompasses the Department's commitment to considering the many ways that an individual candidate can demonstrate his or her unique abilities, experiences, and qualifications as a member of the monitor candidate pool—including with a professional background other than as a former Department official."[40] Likewise, "'inclusion'

[32] U.S. Dep't of Just., Just. Manual § 9-28.1720 (2023).
[33] *Id.* (emphasis added).
[34] Gov't Suppl. Br. 6, ECF No. 278.
[35] *Id.*; *Revised Memorandum on Selection of Monitors in Criminal Division Matters*, U.S. DEP'T OF JUST., 1 (2023), https://www.justice.gov/criminal/criminal-fraud/file/1100366/dl.
[36] *Revised Memorandum*, *supra* note 35, at 2 (emphasis added).
[37] *Id.* at 5.
[38] Gov't Suppl. Br. 7, ECF No. 278.
[39] *Id.* at 8.
[40] *Id.* at 10.

reflects the Department's openness to how these various abilities, experiences, and qualifications may inform the candidate's capacity to serve effectively as the monitor of Boeing's compliance and ethics program."[41]

Critically though, the plea agreement does not define the terms "diversity" and "inclusion."[42] For that, the Government directs the Court to a 2021 Executive Order to clarify the meaning of these terms.[43] The stated purpose of this Executive Order was to "further advance equity within the Federal Government" and "cultivate a workforce that draws from the full diversity of the Nation."[44] The Executive Order defined "diversity" as "the practice of including the many communities, identities, *races*, ethnicities, backgrounds, abilities, cultures, and beliefs of the American people, including underserved communities."[45] Similarly, "'inclusion' means the recognition, appreciation, and use of the talents and skills of employees of all backgrounds."[46]

The Court is concerned with the Government's shifting and contradictory explanations of how the plea agreement's diversity-and-inclusion provision will practically operate in this case. While the Government assures the Court that the Government will *consider* all possible monitors (*i.e.*, all backgrounds, etc.)[47] but will *choose* a monitor solely based on merit and talent,[48] the Court is skeptical of this assertion.

It seems fundamentally inconsistent for the Government to say "in keeping with the Department's commitment to diversity and inclusion" means that the Government will not consider race. Otherwise, why would the Government represent to the Court in its briefing that the

[41] *Id.*
[42] *Id.* at 9.
[43] *Id.* at 8.
[44] Exec. Order No. 14035, 86 Fed. Reg. 34593, 34593 (June 25, 2021).
[45] *Id.* at 34594 (emphasis added).
[46] *Id.*
[47] Gov't Suppl. Br. 7–8, ECF No. 278.
[48] *Id.* at 8.

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term "diversity" in the plea agreement is "generally consistent" with the 2021 Executive Order's definition, which explicitly *includes* race?[49] Indeed, the Government must adhere to this Executive Order, and, consequently, that definition of "diversity" controls what is required by the plea agreement.

The Executive Order and policies outlined above do more than simply prohibit discrimination on the basis of race because current law already does that. *See, e.g.*, 42 U.S.C. §§ 2000e, 1981; U.S. CONST. amend. XIV § 1. Instead, the Executive Order and the policies analyzed above appear to encourage consideration of race in hiring. And a fair reading of the Executive Order's text, the history of DOJ's diversity-and-inclusion requirement, and the parties' DEI policies—taken in totality—requires the Government to prioritize, among other things, race as part of the corporate monitor-selection process in furtherance of the goal to turn the federal workforce into "a model for diversity."[50] Despite the Government's efforts to divorce the Executive Order from the plea agreement, the Court is not convinced in light of the foregoing that the Government *will not* choose a monitor without race-based considerations and thus will *not* act in a non-discriminatory manner.

In a case of this magnitude, it is in the utmost interest of justice that the public is confident this monitor selection is done based solely on competency. The parties' DEI efforts only serve to undermine this confidence in the Government and Boeing's ethics and anti-fraud efforts. Accordingly, the diversity-and-inclusion provision renders the plea agreement against the public interest.

[49] *Id.* at 9; *see* Exec. Order No. 14035, 86 Fed. Reg. 34593, 34594 (June 25, 2021) ("The term 'diversity' means the practice of including the many communities, identities, *races, ethnicities*, backgrounds, abilities, cultures, and beliefs of the American people." (emphasis added)).
[50] Exec. Order No. 14035, 86 Fed. Reg. 34593, 34593 (June 25, 2021).

2. Marginalization of the Court

The Court also rejects the plea agreement because its compliance-monitor provisions erroneously marginalize the Court. Title 18 U.S.C. § 3553(2)(A) requires district courts to impose a sentence that, among other things, promotes respect for the law. In cases where a sentence of probation is imposed, 18 U.S.C. § 3563 authorizes conditions of probation so long as those conditions are reasonably related to factors identified in § 3553(a). The parties recognize that retention of an independent anti-fraud monitor is an appropriate condition of probation in this case. Compliance with the independent monitor's recommendation therefore would necessarily be an appropriate condition of probation under the sentencing authorities.

The plea agreement's process for selecting the anti-fraud monitor, including prohibiting the Court from considering violations of the monitor's anti-fraud recommendations, improperly marginalizes the Court. The Government has monitored Boeing for three years now. It is not clear what all Boeing has done to breach the Deferred Prosecution Agreement ("DPA"). The victims assert the "Government was forced to find that Boeing violated [the DPA] after the door fell off the Alaska airplane."[51] Boeing hints that it may have legitimate arguments in opposition to the Government's determination of breach.[52] Regardless, taken as true that Boeing breached the DPA, it is fair to say the Government's attempt to ensure compliance has failed.

At this point, the public interest requires the Court to step in. Marginalizing the Court in the selection and monitoring of the independent monitor as the plea agreement does undermines public confidence in Boeing's probation, fails to promote respect for the law, and is therefore not in the public interest. Accordingly, the Court cannot accept the plea agreement.

[51] Hr'g Tr. at 58:11–13, ECF No. 274. Boeing also acknowledged the Government's "heightened oversight . . . in the aftermath of the Alaska 1282 accident." Hr'g Tr. at 25:16–17, ECF No. 274.
[52] *See* Boeing Resp. 4, 9, 11, ECF No. 246; Hr'g Tr. at 101–02, ECF No. 274.

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III. CONCLUSION

For the foregoing reasons, the Court **REJECTS** the plea agreement (ECF No. 221-1). In light of this decision, the parties are **ORDERED** to meet and confer and provide the Court with an update on how they plan to proceed in this matter **no later than thirty days from the date of this order**.

SO ORDERED this **5th day** of **December, 2024**.

Reed O'Connor
UNITED STATES DISTRICT JUDGE

26cv073_25-03234_000017

From: (b) (6) (OLA)" (b) (6)
To: Undisclosed recipients:;
Subject: OLA Correspondence 1/3/2025
Date: Fri, 03 Jan 2025 18:08:37 -0500
Importance: Normal
Attachments: 1.3.25_Letter_to_Wray_re_New_Orleans_Terror_Attack.pdf; CTS669632-Klobuchar_and_Smith-DTH_Closure-Inc.pdf; CTS669444-Weber-BMX-Final_Cleared_Response_(002).pdf; CTS669607-Norton-FSA-Response.Final_Cleared.pdf; 2025.01.03-OUT-Casten-Executive_Order_14074.pdf

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Good evening,

Please find today's incoming and priority outgoing correspondence attached and summarized below.

Incoming

1. **Letter from Senator Marsha Blackburn to FBI Director Chris Wray** expressing concern regarding the terror attack in New Orleans on January 1, 2025, and FBI Diversity, Equity, and Inclusion (DEI) initiatives; requesting answers to questions no later than January 10, 2025.
2. **Letter from Senator Amy Klobuchar and Senator Tina Smith to BOP Director Colette Peters** expressing concern regarding the deactivation of Federal Prison Camp Duluth (FPC Duluth). (recirculating)

Outgoing

1. **Letter to Representative Randy K. Weber from BOP** responding to the Member's July 29, 2024, letter to the Department regarding employee safety across BOP and retention pay at the Federal Correctional Complex in Beaumont, Texas.
2. **Letter to Representative Eleanor Holmes Norton from BOP** responding to the Member's November 12, 2024, letter to the Department concerning implementation of the District of Columbia's (D.C.) Corrections Oversight Improvement Omnibus Amendment Act of 2022 (D.C. Act 24-754), specifically as it pertains to First Step Act (FSA) time credits for D.C. code offenders in FBOP custody.
3. **Letter to Representative Sean Casten and 25 other Members** responding to the Members' March 18, 2024, letter to the Department and FBI regarding implementation of Executive Order (E.O.) 14074, *Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety*.

Best,

(b) (6)

(b) (6)
she / her / hers
Office of Legislative Affairs
Department of Justice

MARSHA BLACKBURN
TENNESSEE
http://www.blackburn.senate.gov/

357 DIRKSEN SENATE OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224–3344
FAX: (202) 228–0566

United States Senate

COMMITTEES:
COMMERCE, SCIENCE, AND TRANSPORTATION
FINANCE
JUDICIARY
VETERANS' AFFAIRS

January 3, 2025

The Honorable Christopher Wray
Director
Federal Bureau of Investigation
Washington, D.C., 20520

Dear Director Wray:

I write to express my deep concern regarding the terror attack that occurred in New Orleans on January 1. In the early hours of New Year's Day, an individual plowed a pickup truck into a crowd of people on Bourbon Street in New Orleans, Louisiana, killing 14 innocent people and injuring dozens more. Among the injured are two heroic police officers who traded gunfire with the suspect, who is now deceased. While the facts surrounding this unconscionable attack continue to emerge, what we know is deeply troubling: the suspect was in possession of weapons, improvised explosive devices, and an ISIS flag. This horrific incident constitutes a blatant act of terror on the American homeland, and the people of our country deserve to know whether federal law enforcement agencies can sufficiently prevent and respond to such incidents.

To that end, I am deeply concerned that—under your leadership—the Bureau has prioritized Diversity, Equity, and Inclusion (DEI) initiatives over its core mission of protecting the American people. A recent report, drafted by a group of retired FBI agents for the House Select Subcommittee on the Weaponization of the Federal Government, indicates that "the law enforcement and intelligence capabilities of the FBI are degrading because the FBI is no longer hiring 'the best and the brightest' candidates."[1] The report also notes that "the FBI is selecting [lower quality] candidates to become FBI Special Agents because they satisfy the FBI's priority to meet Diversity, Equity, and Inclusion (DEI) mandates."[2]

In line with President Biden's extreme focus on DEI measures, you announced in early 2021 the hiring of a Chief Diversity Officer at the FBI.[3] The New Orleans FBI Field Office subsequently held a "Diversity Agent Recruiting Event" on July 17, 2024—only a few months before this horrific terror attack on the city.[4] And the New Orleans Chief of Police, Anne Kirkpatrick, is an instructor for the Bureau's Leadership Training Program, where she teaches a course on "bias and diversity."[5] Most recently, in a striking example of tone deafness, the New Orleans FBI Field office thought it important to brag on X about how many bracelets its agents had collected. Your decision to prioritize politics, pop culture, or almost anything else over your mission to protect the

[1] Report on Alarming Trends in FBI Special Agent Recruitment and Selection, (Oct. 2023) https://www.scribd.com/document/701275030/Report-on-FBI-Special-Agent-Recruitment-and-Selection.
[2] *Id.*
[3] Stephanie Pagones, *FBI Director Wray Appoints Agency's First-Ever Chief Diversity Officer*, FOX NEWS (April 21, 2021, 2:33 PM), https://www.foxnews.com/us/fbi-first-chief-diversity-officer-scott-mcmillion.
[4] Press Release, *FBI New Orleans Seeking Diverse Special Agent Candidates*, (May 20, 2024) https://www.fbi.gov/contact-us/field-offices/neworleans/news/fbi-new-orleans-seeking-diverse-special-agent-candidates.
[5] *Superintendent of Police Ann Kirkpatrick*, https://nola.gov/nopd/about-us/superintendent-of-police/.

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public has put Americans in harm's way, and the January 1 terror attack was the inevitable consequence.

Put simply, your focus on woke DEI initiatives at the FBI has endangered our national security and the lives of all Americans. Americans now feel increasingly unsafe because of incidents like the January 1 terror attack, and the FBI's prioritization of diversity over competence shows that their concerns are well founded. Fortunately, the American people have spoken, and President Trump will soon bring law and order back to our nation.

In the meantime, until the President-Elect's nominee to lead the FBI is confirmed, the American people deserve to know the full extent to which your radical DEI agenda has compromised our national security. To that end, please respond to the following questions by **January 10, 2025**:

1. How many FBI employees have been hired based on the Bureau's DEI initiatives that you have instituted?

2. How are such DEI initiatives funded? Have any funds from the Bureau's budget been reallocated to fund these initiatives?

3. How many FBI agents were hired as a result of the July 17, 2024 "Diversity Agent Recruiting Event" in New Orleans? In answering this question, please specify the total number of agents hired and to which Agency components they were assigned.

4. Has the Bureau recently terminated the employment of any FBI agents who assist the FBI's National Security Branch counterterrorism and intelligence components?

5. In the online posting about the July 17 event, FBI New Orleans Special Agent in Charge Lyonel Myrthil is quoted as stating that "the diversity of our staff is the most valuable resource we have in . . . keeping Americans safe."[6] Do you agree with that statement?

Thank you for your attention to this urgent matter.

Sincerely,

Marsha Blackburn
United States Senator

[6] Press Release, *FBI New Orleans Seeking Diverse Special Agent Candidates*, (May 20, 2024) https://www.fbi.gov/contact-us/field-offices/neworleans/news/fbi-new-orleans-seeking-diverse-special-agent-candidates.

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From: (b) (6) (OLA)" (b) (6)
To: Undisclosed recipients:;
Subject: OLA Weekly Report - Week of January 13, 2025
Date: Fri, 10 Jan 2025 18:26:37 -0500
Importance: Normal
Attachments: OLA_Weekly_Report_01-13-2025.pdf

Good evening,

Attached please find the OLA Weekly Report. Please let us know with any questions.

Best regards,
(b) (6)
Confidential Assistant
Office of Legislative Affairs
(b) (6)

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General *Washington, DC 20530*

January 10, 2025

MEMORANDUM FOR THE ATTORNEY GENERAL & DEPUTY ATTORNEY GENERAL

FROM: Carlos Felipe Uriarte, Assistant Attorney General

SUBJECT: Report for the Week of January 13, 2025

The House is in session from Monday, January 13 to Thursday, January 16. The Senate is in session from Monday, January 13 to Friday, January 17.

The following is a summary of our current congressional and intergovernmental affairs activities.

A. Week of January 13, 2025

A. Hearings at Which the Department is Testifying

None

B. Hearings of Interest to the Department

1. **Secretary of Veterans Affairs Nomination:** On Tuesday, January 14 at 9:00 AM, the Senate Veterans' Affairs Committee will hold a hearing to examine the expected nomination of Douglas Collins to be Secretary of Veterans Affairs.

2. **Secretary of Defense Nomination:** On Tuesday, January 14 at 9:30 AM, the Senate Armed Services Committee will hold a hearing to examine the expected nomination of Peter Hegseth to be Secretary of Defense.

3. **Attorney General Nomination:** On Wednesday, January 15 at 9:30 AM, and Thursday, January 16 at 10:15 AM, the Senate Judiciary Committee will hold a hearing to examine the expected nomination of Pamela Bondi to be Attorney General.

4. **Secretary of Homeland Security Nomination:** On Wednesday, January 15 at 9:00 AM, the Senate Committee on Homeland Security and Governmental Affairs will hold a hearing to examine the expected nomination of Governor Kristi Noem to be Secretary of Homeland Security.

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5. **Secretary of State Nomination:** On Wednesday, January 15 at 10:00 AM, the Senate Foreign Relations Committee will hold a hearing to examine the expected nomination of Senator Marco Rubio to be Secretary of State.

6. **Remote Work by Federal Workers:** On Wednesday, January 15 at 10:00 AM, the House Committee on Oversight and Government Reform will hold a hearing titled "The Stay-at-Home Federal Workforce: Another Biden-Harris Legacy." Witnesses have not yet been announced.

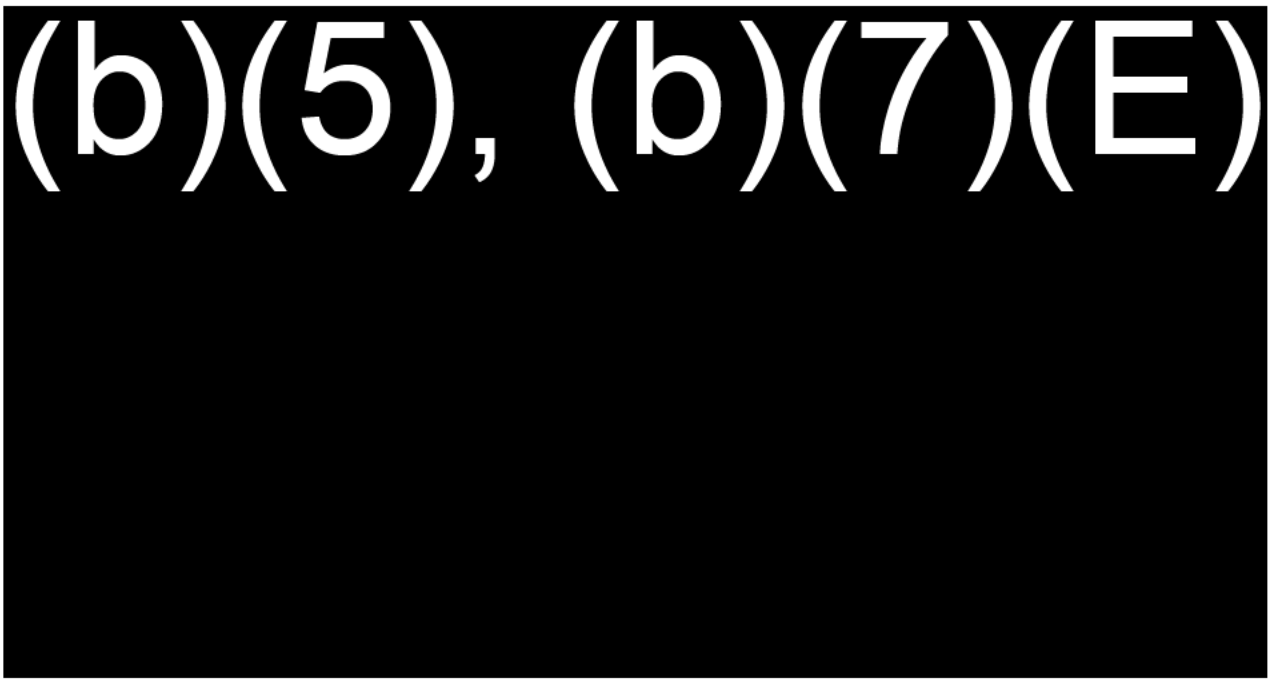
7. **Office of Management and Budget Nomination:** On Wednesday, January 15 at 1:00 PM, the Senate Committee on Homeland Security and Governmental Affairs will hold a hearing to examine the expected nomination of Russell Vought to be Director of the Office of Management and Budget.

8. **Central Intelligence Agency Nomination:** On Wednesday, January 15 at 10:00 AM, the Senate Intelligence Committee will hold a hearing to examine the expected nomination of John L. Ratcliffe to be the Director of the Central Intelligence Agency.

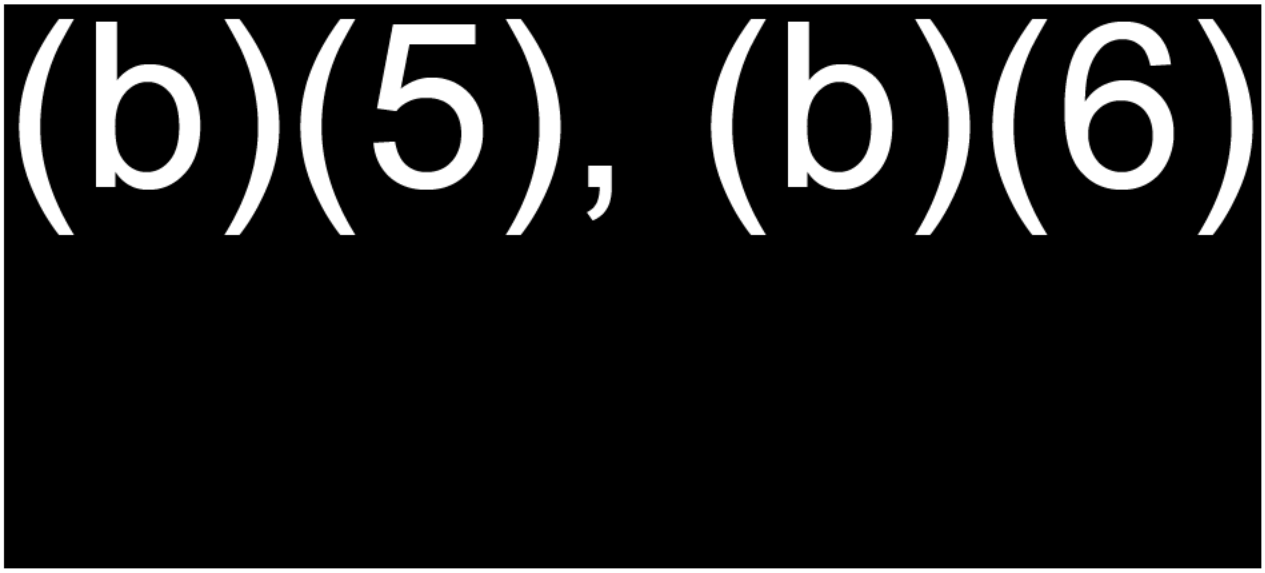
9. **Secretary of Transportation Nomination:** On Wednesday, January 15 at 10:00 AM, the Senate Commerce, Science, and Transportation Committee will hold a hearing to examine the expected nomination of Sean Duffy to be Secretary of Transportation.

10. **Secretary of Energy Nomination:** On Wednesday, January 15 at 10:00 AM, the Senate Energy and Natural Resources Committee will hold a hearing to examine the expected nomination of Chris Wright to be Secretary of Energy.

C. Scheduled Briefings



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D. **Intergovernmental Affairs Engagements**

None

B. **Looking Ahead**

A. **Hearings**

None

B. **Briefings**

None

C. **Intergovernmental Affairs Engagements**

None

C. **Transcribed Interviews**

None

D. **Committee Markups and Business Meetings**

A. **House**

A. **Week of January 6**

None

B. **Week of January 13**

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None

B. Senate

A. Week of January 6

None

B. Week of January 13

None

A. Significant Legislative Developments of Interest to the Department

1. **House Rules:** On Friday, January 3, the House of Representatives passed H. Res. 5, "Adopting the Rules of the House of Representatives for the 119th Congress, and for other purposes," by a vote of 215-209.

E. Congressional Reports and Letters of Interest to the Department

None

F. Department Leadership Nominations

New Activity: None

Total Nominees Pending, Awaiting Senate Floor Action: None

Total Nominees Pending, Awaiting Senate Judiciary Action: None

G. U.S. Attorney Nominations

New Activity: None

Total Nominees Pending, Awaiting Senate Floor Action: None

Total Nominees Pending, Awaiting Senate Judiciary Action: None

H. U.S. Marshal Nominations

New Activity: None

Total Nominees Pending, Awaiting Senate Floor Action: None

Total Nominees Pending, Awaiting Senate Judiciary Action: None

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I. Judicial Nominations

New Activity: None

Total Nominees Pending, Awaiting Senate Floor Action: None

Total Nominees Pending, Awaiting Senate Judiciary Action: None

J. Congressional Correspondence

Incoming

Letter from Senator John Cornyn and six other Senators to Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Director Steven Dettelbach urging ATF to suspend and refrain from issuing any further rulemaking before January 20, 2025. (January 3, 2025)

Letter from Representative John Rutheford to the Attorney General expressing concerns over the Department's Students, Teachers, and Officers Preventing (STOP) School Violence Program being used to fund restorative justice programs and "diversity, equity, and inclusion" training and urging the Department to review the administration of the STOP School Violence Program to ensure that its funds are being used as Congress intended. (January 7, 2025)

Letter from Senate Judiciary Committee Chairman Richard Durbin to the Attorney Geneal urging the Attorney General to withdraw certain legal opinions by the Department's Office of Legal Counsel relating to the allocation of war powers and foreign relations powers between Congress and the President and to publicly release certain records relating to the President's authority to deploy U.S. Armed Forces within the United States as well as the activities in which those military personnel may or may not engage. (January 7, 2025)

Letter from Representative John Rutheford to the Attorney General following up on the Member's May 15, 2024, letter continuing to express concerns over allegations that the Department has failed to enforce the Freedom of Access to Clinic Entrances Act in certain instances of potential targeted attacks against religious organizations. Answers to questions requested no later than Monday, January 10. (January 7, 2025)

Letter from Representative Lance Gooden to the Attorney General inquiring about the Department's recent indictments of Gautam Adani and other Indian corporate executives. Answers to questions requested no later than Friday, January 31. (January 7, 2025)

Letter from Representatives Mark Green and August Pfluger to Federal Bureau of Investigation (FBI) Director Christopher Wray and Secretary of Homeland Security Alejandro Mayorkas seeking information about the attack that occurred on Bourbon Street in New Orleans, Louisiana, on New Year's Day; requesting a briefing no later than Monday, January 20. (January 7, 2025)

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Letter from members of the Congressional Hispanic Caucus to President Joseph R. Biden, copying FBI Director Christopher Wray and Central Intelligence Agency Director William Burns, requesting the President direct the FBI to immediately collect and release information regarding past surveillance of Latino American communities, particularly during the 1960s and 1970s. (January 8, 2025)

Letter from Senator Rick Scott to the Attorney General, FBI Director Christopher Wray, and Secretary of Homeland Security Alejandro Mayorkas expressing concern regarding a potentially increased threat level ahead of the inauguration of President-elect Donald Trump and requesting a classified briefing regarding inauguration security measures. Response requested by January 13. (January 9, 2025)

Letter from House Committee on Oversight and Government Reform Chairman James Comer and Representative Clay Higgins to the Attorney General and FBI Director Christopher Wray following up on several requests made by the Task Force on the Attempted Assassination of Donal J. Trump during the 118th Congress. (January 10, 2025)

Letter from Representative Al Green to President Joseph R. Biden, copying the Attorney General and the Department's Civil Rights Division, requesting a report regarding the 1921 massacre that took place in Tulsa, Oklahoma. (January 10, 2025)

Outgoing

Letter to Representative Dan Newhouse responding to the Representative's November 21, 2023, letter regarding the treatment of defendants held by the District of Columbia Department of Corrections. (January 6, 2025)
Letter to Senator Charles Grassley from the Federal Bureau of Investigation (FBI) responding to the Senator's October 5, 2022, and October 10, 2024, letter regarding the FBI's response to allegations of employee sexual harassment or misconduct. (January 7, 2025)

Letter to Senate Judiciary Committee Chairman Charles Grassley and Ranking Member Dick Durbin and House Judiciary Committee Chairman Jim Jordan and Ranking Member Jamie Raskin from the Attorney General informing the Members, pursuant to 28 C.F.R. § 600.9(a)(3), that Special Counsel John L. Smith has concluded his investigation and sharing determinations regarding the release of Volumes One and Two of the Special Counsel's report. (January 8, 2025)

Letter to House Judiciary Committee Chairman Jim Jordan responding to the Chairman's January 6, 2025, letter and subpoena seeking the production of the audio recordings of Special Counsel Robert K. Hur's interviews of President Joseph R. Biden and Mark Zwonitzer. (January 9, 2025)

Letter to Senators Cory Booker, Elizabeth Warren, and seven other Senators responding to the Senators' May 21, 2024, and August 6, 2024, letters regarding the regulation of capital punishment drugs. (January 10, 2025)

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K. Intergovernmental Affairs Correspondence

Incoming

None

Outgoing

None

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From: (b) (6) (PAO)" (b) (6)

To: "Fontecchio, Ari B. (OAG)" (b) (6), "Benson, Adrienne (ODAG)" (b) (6), "Bond, Slade (OLA)" (b) (6) "Bruck, Andrew (ODAG)" (b) (6), (b) (6) (OLA)" (b) (6), "Morris, Catherine (PAO)" (b) (6), "Chandler, Adam (ODAG)" (b) (6), "Cocklin, Katherine P. (OLA)" (b) (6), "Iverson, Dena (PAO)" (b) (6), "Dulaney, Emma (PAO)" (b) (6), "Fischer, Sydney (PAO)" (b) (6), "Gao, Greta G. (OLA)" (b) (6), "Hanson, Matthew B. (OLA)" (b) (6), "Hartnett, Julia (PAO)" (b) (6), "Hinojosa, Xochitl (PAO)" (b) (6), "Pietranton, Kelsey (PAO)" (b) (6), "Kohlman, Abby K. (OLA)" (b) (6), (b) (6) (OLA)" (b) (6), "Linehan, Corey (OLA)" (b) (6), (b) (6) (OLA)" (b) (6), "Klapper, Matthew B. (OAG)" (b) (6) >, "Miller, Marshall (ODAG)' (b) (6) "Mogil, Joshua (ODAG)" (b) (6), "Rubio, Christian R.. (ODAG)" (b) (6) "Schroeder, Ted (OLA)" (b) (6) "Shevlin, Shannon (OPA)" (b) (6), (b) (6) (PAO)" (b) (6), "Uriarte, Carlos F. (OLA)" (b) (6), "Wagner, Rose (JMD)" (b) (6), "Walker, Burden (CIV)" (b) (6), "Hornbuckle, Wyn (PAO)" (b) (6), "Zdeb, Sara (OLA)" (b) (6)

Subject: MoC Sunday Show Clips – December 22

Date: Sun, 22 Dec 2024 13:42:39 -0500

Importance: Normal

MoC Sunday Show Clips – December 22, 2024

Fox News – Fox News Sunday

Sen. Markwayne Mullin (R-OK)

Spoke on CR, Musk, Trump and Rep. DeLauro

- *On Johnson's future:* "I think it's going to be a challenge, but I think he can survive. At the end of the day he can only lose I think 2 votes. The House is a very thoughtful but sometimes chaotic body and they'll work their will at the end of the day. But Speaker Johnson's been a great Speaker, he's worked very good with President Trump. I hope he can stay but at the same time that body is going to make their decision."

Sen. Ben Cardin (D-MD)

Spoke on Israel, Middle East and POTUS Biden

- "Well in the regards to the recent observations, we've been informed that there's no threat against our country. But there are so many drones that are in the air today. Many of them are just done by private or recreational use by individuals. There's air crafts that are identified as drones that are not drones that are causing real safety issues in regards to lasers beams. So there is a desperate need for us to get a handle on drones and the regulations of drones and where they can fly and of course it's already a criminal offense to use lasers. So we need to get a better handle on it. Obviously it is a vulnerability that we have to make sure never becomes one that could compromise America's national security."

Fox News – Sunday Morning Futures

Sen. Rand Paul (R-KY)

Spoke on CR, debt ceiling, tax policy, Musk, DEI policies and Trump nominees

- "Well you know I don't get a vote cause I'm in the other body, but I would say that I did get one vote about four years ago I got one vote for Speaker, I think Donald Trump has gotten a couple votes for Speaker. I think it's good to mix it up and let them know we're not happy with the job they're doing but really someone just has to – people at home are saying why don't we control the power of the purse we elected

republicans, why don't we have the power of the purse and people say well the Democrats control the Senate so I say well what does that mean we have 50% of the power of the purse. No I think we exercise zero. Because they're so afraid of shutdown, so afraid of Democrats, they pre decide, they pre negotiate with themselves, they give Democrats everything they want."

Rep. Michael Waltz (R-FL)
Spoke on drones, hostages in Gaza, Hegseth and Gabbard,

- "This has been a massive penetration of our – all of our – telecom companies by Chinese back hackers that can essentially listen to anyone and everyone they want and this is part of the tsunami of hacking that we have been under from China, from Russia, from Iran and look we have to stop trying to just play better and better defense. Back in the cold war when we saw the Soviets building up their missiles, we just didn't build better and better defenses we built an offensive capability that they respected that they knew could be unleashed on them and therefore you changed behavior and restored stability. I think we need to take a step back and look at that in the cyber field. We need to start going on offense, we need to start imposing consequences for those that are stealing our technology, spying on us and now with a program called Volt Typhoon is putting cyber time bombs on our critical infrastructure like our water, our grid and our ports. Enough is enough. And I know President Trump is going to lead the charge to restore peace, restore stability and that's by making our adversaries respect us."

CNN – Inside Politics Sunday
Sen. Joe Manchin (I-WV)
Clip One, Clip Two
Spoke on dysfunction of Congress, Democratic party, VP Harris, GOP, Trump and new party

CNN – State of the Union
Sen. Bill Hagerty (R-TN)
Clip
Spoke on CR, Trump, debt ceiling, POTUS Biden, Musk and Twitter

Sen. Chris Coons (D-DE)
Clip
Spoke on CR, Musk, Trump, Presidential transition and POTUS Biden

- "I have encouraged the President to seriously consider commuting the sentences to life in prison without hope of parole for these truly heinous criminals. These are people who should never be out of prison. But Pope Francis has called on President Biden, as have many other criminal justice reform leaders, faith leaders, to step aside from federal death penalties because, frankly, former President Trump executed quite a few, directed the execution of quite a few individuals on federal death row. There are some real questions about the fairness and the process of the death penalty in the United States. And I don't know what President Biden will ultimately do, but I think there are reasons, both in terms of racial justice, due process and what it says domestically and to the world about our values if we were to go ahead and execute all of these individuals, rather than have them spend the rest of life in prison."
- "I think he should consider on a case by case basis, commuting their sentences of death to a sentence of life in prison without parole."

Rep. Tim Burchett (R-TN)
Clip
Spoke on CR and debt ceiling

- "Well, there is a lot of discouragement, but I understand what Mike is up against. I mean, he's got a three majority lead if if a bad case of the flu comes through then we're in the minority. I mean, that's the that's the reality of Washington today. And he has some tough decisions. I think ultimately it's going to be it's going to be decided who President Trump likes, because I believe that will weigh in heavily on the decision making of that, because, right, currently President Trump works very well with Mike Johnson. They have a great relationship." *So if Trump says he's for Johnson, you will be too?* "Possibly, possibly. I'll make my own decision. I like Mike, I voted for him when he ran this time. I mean, he was he was a clear consensus. I think he has to show me that we're going to we're going to be serious about making these cuts. We're not going to say, let's pass this one more time, one more of these bad spending bills so we can get back in shape. You know, we say we don't trust Joe Biden with money. But, you know, we gave him over 100 billion in one account and billions in others. And yet we continue doing the same thing. And we keep saying next time, next time, next time. Well, we're $36 trillion in debt. Every 100 days we add another trillion. We're going to run off that cliff. And I just I don't want to be one that's held responsible

for that because I think America deserves better. And we need to start talking seriously about fiscal responsibility, both parties."

NBC – Meet the Press
Sen. Raphael Warnock (D-GA)
Clip One, Clip Two, Clip Three
Spoke on Bipartisanship, gun violence and religion

Sen. James Lankford (R-OK)
Clip One, Clip Two, Clip Three
Spoke on Bipartisanship, gun violence, immigration and religion

MSNBC – The Weekend
Rep. Angie Craig (D-MN)
Clip
Spoke on rural communities, her district and ranking member elections

Rep. Elect Laura Gillen (D-NY)
Clip
Spoke on CR, new Congress, Musk, Trump, her district and Johnson

CBS – Face the Nation
Sen. Joe Manchin (I-WV)
Clip
Spoke on Trump, next Congress, IRA and energy policy

Rep. Tony Gonzales (R-TX)
Clip
Spoke on CR, Musk, Rep. Granger, Border patrol, Syria and refugees
- "Yeah, and I do, I do support Speaker Johnson, I think he's done a fantastic job keeping us all together. It's like feral cats in the House, right? So that's a tough job to begin with, but the fact that he was able to work with President Trump in order to whittle it down to a little over 100 pages, the fact that he was able to work with the, you know, with Elon Musk and some of these other folks, other members, to find a solution, just goes to prove that he's found a way. But they're also- this can't be the norm. This cannot be the norm. Once again, that's the reason why I voted against the CR is, this cannot be the norm, that we have to get back to regular order and pass our appropriations bills. Homeland Security is certainly important to us. There's other things that are going on in the world."

Rep. French Hill (R-AR)
Clip
Spoke on CR, budget, Trump, Rep. DeLauro, Trump, GOP female leaders and Syria
- *On Gaetz Report:* "That's not – well I don't know that's how I would characterize what I said. I said it's up to that committee. I think they are – they have released documents before, but I think that's something they should do with a great deal of caution, because you open up a Pandora's box of a lot of other investigations over many, many years conducted by that committee. But if they've thought it through, reviewed the material and made that decision, that's their decision."

ABC – This Week
Sen. John Fetterman (D-PA)
Clip
Spoke on Trump, 2024 election, Trump nominees, Hegseth and Rubio
- *On Kash Patel:* "Yeah, and I've -- we have had conversations, but we had, you know, all of these -- all these interviews were all off the record ND those things. I'm not going to go into detail, but he absolutely is that -- that's, you know, that's never going to happen. Like, he was -- he was very forceful about it." *He's not going to use the FBI to go after Trump's enemies?* "Yeah that's not it." *Did you believe him?* "That's what he claims."

Sen. Elect John Curtis (R-UT)
Clip
Spoke on Romney, Trump, Trump nominees, Hegseth and debt ceiling

- “So those were very specific conversations I had with him. For me, one of the most important things that I needed to hear from Kash is that he would be blind to political affiliation because I know some of the things that he's said and that have been attributed to him. And it was important to me that he goes after bad guys. And I don't care if they're Republicans or Democrats. We had some very specific conversations about that, and I wanted to make sure that he would be blind to that.”
- *On Liz Cheney:* “You know he said the same things about Hillary Clinton a number of years ago.” *Lock her up, I recall.* “Lock her up and so I wouldn't say I'm not concerned, but I'm also watching.”

NewsNation – The Hill Sunday
Rep. Ami Bera (D-CA)
Clip
Spoke on CR, immigration, debt ceiling, Russia and Gabbard

Rep. Tom McClintock (R-CA)
Clip
Spoke on the vote margin and DOGE
- “Well the problem with replacing Mike Johnson is that you've got to find somebody in his right mind who wants to take that job and anybody that wants it obviously isn’t in his right mind. You know, danger is this without restoring party discipline on procedural votes we’re not a majority. You know, subsidiary votes belong to the individual member lord knows i've been outlier from time to timemyself. But the procedural vote that elects the Speaker. That's a collective decision that belongs to the majority. And that's what's broken and the irony is self-described conservatives who broke it as I’ve been trying to warn. The Democrats get 215 votes on the House floor. They get 0 in the Republican conference. So where do you want these decisions being made? Because if they're going to be made on the House floor, those 215 Democrats are much more likely to side with the 3 most liberal members of our conference. Not the 3 most conservative.”
- *On Cheney:* “No, that's not a crime because this isn't a judicial proceeding. You know, Marcus Aurelius said that the best revenge is not becoming like your enemy. While Republicans were elected to clean up the agencies that weaponized our laws, we can't clean up that mess if we're making more of it at the same time, I think the report itself is very important. It exposes the misconduct of the January 6th Committee and its members. It's all laid out in 145 damning pages. Cheney's forever going to have to explain her conduct in light of that report. So we won now let it go.”

(b) (6)
Press Assistant, Office of Public Affairs
U.S. Department of Justice
(m) (b) (6)
(b) (6)

From: "Hinojosa, Xochitl (PAO)" (b) (6)
To: "Dulaney, Emma (PAO)" (b) (6), "Klapper, Matthew B. (OAG)" (b) (6), "Miller, Marshall (ODAG)" (b) (6), "Weinsheimer, Bradley (ODAG)" (b) (6), "Iverson, Dena (PAO)" (b) (6), "Hornbuckle, Wyn (PAO)" (b) (6), "Chandler, Adam (ODAG)" (b) (6), "Lauria, Jolene A. (JMD)" (b) (6)
Subject: RE: [EXTERNAL] Welcome (back) to Transition Playbook
Date: Wed, 13 Nov 2024 10:50:30 -0500
Importance: Normal

Adding the full language here for folks who don't have it. Also adding Adam and Jolene.

Career DOJ lawyers must be fully committed to implementing President Trump's policies or they should leave or be fired. Why do I keep raising this? Because there are several examples (below) of career staff sabotaging cases they disagreed with in the first Trump Administration. This can't happen again. There are superb career employees in the US government. I know this from first hand experience working as the General Counsel at OMB. I worked with terrific career lawyers who helped us figure out how to accomplish President Trump's agenda. For example, it was a career lawyer who first suggested that we could tap funds at the DOD to build the wall. There were others within OMB who were not helpful and tried to thwart our efforts to implement the President's agenda. An OMB employee leaked documents from a meeting to a publication to harm our management reform efforts and then lied when this employee was questioned by an OMB career attorney who was investigating the leak. (I know this happened because several months later I received a call from an intel agency telling me this employee had admitted to leaking this document in a polygraph session.) I hope DOJ attorneys will embrace their responsibility to implement President Trump's agenda. That is their constitutional duty. If the president wants to deport illegal aliens, secure the border, ban race based "affirmative action" and DEI, investigate antisemitism, halt Big Tech censorship, grant pardons and commutations to Jan 6th defendants, he has every right to expect that these perfectly lawful policies are implemented, and it is absolutely unacceptable for career employees to seek to thwart this policy agenda. The duty of a lawyer is to promote the objectives of his client within the bounds of the law, not to substitute his views for those of the client. Government lawyers may respectfully suggest alternative actions, but once the duly elected President makes a decision, it is the job of civil servants to carry out that decision to the best of their abilities whether they personally agree with it or not. Under the Constitution, the People vested ALL executive power in the PRESIDENT, not in the unelected lawyers who are to assist him in the exercise of that power. Any civil servant who claims their actions to resist these policy initiatives will be doing so to uphold the rule of law is being dishonest. They are undermining the rule of law and subverting democracy and should be fired. Here are two brief examples of career DOJ attorneys sabotaging two cases in the first Trump Administration:

Example 1: Pursuing President Trump's policy of eliminating racial discrimination in higher education admissions and in response to complaints of race discrimination by Asian college applicants, the DOJ Civil Rights Division conducted a 2 year investigation into Yale University's admission practices. The evidence demonstrated that Yale was indeed discriminating against Asians and whites. In fact, it was 8 times harder for Asian applicants to be admitted than black applicants with comparable SAT/grades in certain admissions strata. 50 Asian applicants a year who otherwise would have been admitted to Yale were rejected solely because they were Asian. Yale went so far as to use race to strike preliminarily accepted students from its admission list to balance the racial composition of its freshman class. The Civil Rights Division leadership (appointed by the President and confirmed by the Senate) wanted to file suit, but no career lawyer from the relevant section, the Educational Opportunity Section, was willing to work on the case. They were all "too busy." The political leadership had to draft the complaint and pull in lawyers from other sections and divisions to work on this case. The career staff resistance delayed the DOJ filing this case, which was seeking compensation for the victims of Yale's racial discrimination. Each year of delay meant another class of Asian and white applicants illegally discriminated against. The Trump DOJ's position was vindicated by the Supreme Court in two companion cases filed by a private party, Students For Fair Admissions vs. Harvard and Univ of North Carolina. The views of the career attorneys who refused to work on the Yale case were not only legally wrong under the constitution but in the minority of public opinion. A majority of Americans, including black Americans, are opposed to racial preferences in college admissions. The will of the American people should not be thwarted by unelected civil servants willing to ignore the law to advance their personal opinions favoring race discrimination. Shortly after Biden's inauguration, the Biden DOJ dismissed the Yale case. There are indications that Yale continues to racially discriminate in its admission practices and has recently received a letter from SFFA raising these concerns and asking for Yale to preserve documents (see below). Example 2: Career attorneys seek to block investigation into coverup of Covid nursing home deaths in state run by Democrat Governor Andrew Cuomo. In the summer of 2020, New York had by far the highest Covid death toll of any state in the country – twice that of Texas, and Florida. Yet, New York was reporting relatively low numbers of Covid nursing home deaths. DOJ Civil Rights political leadership repeatedly directed the career staff to draft a short request asking the Cuomo Administration to produce data concerning Covid nursing home deaths so that DOJ could determine what was going on. Yet the career staff failed to do so, and political appointees eventually were forced to draft and send the request themselves. Why did the career staff fail to investigate New York's peculiar and suspicious nursing home Covid death claims? Because Governor Cuomo, a Democrat, was the Left's foil to President Trump during Covid and the career staff apparently did not want to make Cuomo look bad. Data disclosed by New York officials in response to the DOJ request revealed that the Cuomo Administration had covered up a third or more of NY's Covid nursing home deaths in state run facilities, and the Cuomo administration obstructed a subsequent investigation into privately run nursing homes – trying to wait until after the election and Biden inauguration in the hope

the matter would be allowed to drop by a "friendly" DOJ. As it turned out, revelations of New York's Covid coverup kicked off other allegations (of sexual misconduct) that forced Cuomo to resign. But the Biden DOJ did quietly bury investigation of the Covid nursing home coverup after Biden was inaugurated. Career attorneys who refuse to carry out the policies of the President because they disagree with him are not protecting the rule of law and democracy; they are subverting it. The American people elected President Trump to implement his agenda, and the career staff took it upon themselves to thwart it, not because it was a threat to democracy but because they disagreed with the policies. How many reports were there of career employees refusing to implement Biden's flagrantly unlawful energy and student loan policies? The American people overwhelmingly want to end DEI, ban boys from playing in girls' sports and using girls' locker rooms, secure our border, and deport illegal aliens. The Deep State should not be allowed to subvert the will of the American people. As I stated in my prior post, those DOJ career staff who refuse to implement in good faith President Trump's agenda should leave. Those who resist by trying to sabotage the duly elected President's agenda should be terminated for failing to do their jobs.

9:36 AM · Nov 13, 2024

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Views

From: Dulaney, Emma (PAO) (b) (6)
Sent: Wednesday, November 13, 2024 10:32 AM
To: Klapper, Matthew B. (OAG) (b) (6) ; Miller, Marshall (ODAG) (b) (6) ; Weinsheimer, Bradley (ODAG) (b) (6) ; Hinojosa, Xochitl (PAO) (b) (6) ; Iverson, Dena (PAO) (b) (6) ; Hornbuckle, Wyn (PAO) (b) (6)
Subject: RE: [EXTERNAL] Welcome (back) to Transition Playbook

https://x.com/MarkPaoletta/status/1856707633644007598

From: Dulaney, Emma (PAO)
Sent: Wednesday, November 6, 2024 6:52 PM
To: Klapper, Matthew B. (OAG) (b) (6) ; Miller, Marshall (ODAG) (b) (6) ; Weinsheimer, Bradley (ODAG) (b) (6) ; Hinojosa, Xochitl (PAO) (b) (6) ; Iverson, Dena (PAO) (b) (6) Hornbuckle, Wyn (PAO) (b) (6)
Subject: Fwd: [EXTERNAL] Welcome (back) to Transition Playbook

MARK PAOLETTA is leading transition plans for DOJ

Begin forwarded message:

From: POLITICO West Wing Playbook <westwingplaybook@email.politico.com>
Date: November 6, 2024 at 5:37:02 PM EST
To: "Dulaney, Emma (PAO)" (b) (6)
Subject: [EXTERNAL] Welcome (back) to Transition Playbook
Reply-To: "POLITICO, LLC" <reply-5B32L2JTEZAE3JMGQVQ55G3ZC4.40140@politicoemail.com>

MARK PAOLETTA is leading transition plans for DOJ

From: "Leonard, Amanda" (b) (6)
To: Undisclosed recipients:;
Subject: [EXTERNAL] FTN Transcript: Mike Waltz - Jan. 19, 2025
Date: Sun, 19 Jan 2025 10:23:07 -0500
Importance: Normal



This is a transcript of moderator **Margaret Brennan**'s interview with Incoming White House National Security Adviser **Mike Waltz** from the Jan. 19, 2025 broadcast of "Face the Nation with Margaret Brennan" on the CBS Television Network.

Online transcript: **CLICK HERE**

Please credit: "Face the Nation with Margaret Brennan" / CBS News

****RUSH TRANSCRIPT****

MARGARET BRENNAN: We are joined now by Congressman Mike Waltz. He's the incoming National Security Advisor to President elect Donald Trump. Good to have you here.

REP. MIKE WALTZ: Good to be with you. Thanks

MARGARET BRENNAN: I understand just yesterday, you were meeting with the families of some of the hostages being held in Gaza. At least three Americans assessed to still be alive and in captivity. One of them might not be released until phase two, when male soldiers are released and Israeli troops withdraw. Will the Trump team see this through to completion?

REP. WALTZ: Well, remember the terms of the deal that we finally have come to was inherited in many ways, from the Biden administration. So it was actually the Biden negotiators that were at the table, and the the other side was dealing with them, but kind of looking to us, particularly Steve Witkoff, President Trump's Middle East envoy. And one of the things that we inherited was this framework of women, the elderly and the sick coming out first. The one of the Americans is an Israeli soldier. He that means he'll come out in the second phase, but we will get him out period--

MARGARET BRENNAN: Edan Alexander.

REP. WALTZ: Edan Alexander. And I am convinced, Margaret, that this deal would have never happened had President Trump not been elected.The Trump effect, so to speak, the families believe that they were effusive and their thanks for him and the- in the truth that he put out that put Hamas on notice, that there will be consequences if they don't let our people go.

MARGARET BRENNAN: There is also obviously the party Israel here–

REP. WALTZ: --Yep--

MARGARET BRENNAN: that feels some pressure to get this done. One far right member of the Netanyahu government resigned. Another this morning said he will bring down the Netanyahu government if it does not return to fighting in a way that leads Israel to taking over the entire Gaza Strip. Does Mr. Trump support annexation of the West Bank and Gaza?

REP. WALTZ: Well, excuse me, very different things. What we're talking about here is making sure that Hamas is destroyed as a terrorist organization. Hamas is no different than ISIS or Al Qaeda or any of the worst of the worst that has so brutalized the Middle East over the years. And what we have made clear to Bibi Netanyahu, to his government- and I want the Israeli people to hear me loud and clear. If Hamas reneges on this deal, if Hamas backs out, moves the goal post, what have you we will support Israel in doing what it has to do, number one, and number two, Hamas will never govern Gaza. That is completely unacceptable, because they've made their intention clear, which is to destroy Israel and to have future October 7s. So I understand the concern, but at the end of the day, Prime Minister Netanyahu supported this deal. He agreed we needed to get those hostages out, and within the next 24 hours, we will see- we will see three women coming out alive and hugging their families. And had we not

entered this, these people would have died, Margaret. I mean these conditions that they were in by the way, they've been held now longer than the hostages in 1979 in the Iranian hostage crisis. They were being brutalized, raped, tortured. It was horrific, but now we're going to have a Reagan moment. We are going to have President Trump being sworn in as hostages are coming out alive, and that's something we should all celebrate.

MARGARET BRENNAN: You've also said, though, that you want to build on this to eventually get peace between Israel and Saudi Arabia, normalization.

REP. WALTZ: That's right.

MARGARET BRENNAN: The price of that is recognition of a Palestinian state, according to Saudi Arabia. Does Mr. Trump support a two-state solution? Hamas doesn't want two states. The far right in Israel doesn't want two states. Does Mr. Trump?

REP. WALTZ: Well, President Trump's plan and his first term, his plan for the Middle East and his plan for Israel and Palestine had a pathway to a two-state with all kinds of very important qualifiers that had to be in place beforehand. Stop radicalizing the next generation of Palestinian youth. Very specifics components of that plan in terms of how things would be divided up, but I do think we can get to the next round of the Abraham accords. We- I do think we can expand it, and that will be between Israel and Saudi Arabia, which will be tremendous. That has been a main goal of the Netanyahu government now for years. And Margaret, I can tell you, for President Trump, if in a short amount of time, if we're talking about infrastructure projects, ports, rails, fiber, data center, if we're talking about all of those things, these historic animosities will become smaller and smaller and smaller, and that is the piece that he seeks, and that only he can lead.

MARGARET BRENNAN: So, Mr. Huckabee, the possible future ambassador to Israel, is wrong when he says that Mr. Trump does not believe in a two state solution in the future?

REP. WALTZ: Well, I've spoken

MARGARET BRENNAN: he said that yesterday on Fox News

REP. WALTZ: -- yeah, no, I've spoken to him, and it's- it's how do we eventually get there, right? And what we eventually want is the Abraham Accords and that next round, right? And there is a lot of room. Both can be true. We are going to protect Israel. We are going to make sure that they are defended. But eventually we're going to come to some accommodation that Saudi Arabia is comfortable in entering into that deal.

MARGARET BRENNAN: To lead to a Palestinian state. That's what they're asking–

REP. WALTZ: --well, we'll see exactly--

MARGARET BRENNAN: a process

REP. WALTZ: what that looks like. That process is going to is going to be long. And what, you know, what was so interesting about the first administration was that we shifted the dynamics. We brought Israel and the Arab states together because of their mutual concern about Iran and its hegemonic aggression, and what the ayatollahs intend- intended to do. We sat the Palestinian issue aside for a bit

MARGARET BRENNAN: Yeah.

REP. WALTZ: And that is what I think the framework we'll get back to.

MARGARET BRENNAN: There's a lot to get to. So I want to ask you what we should expect in terms of executive actions in these early days from Mr. Trump?

REP. WALTZ: Oh, well, look, we're going to have his campaign promises that he promised to the American people right out there on the table, in terms of border, in terms of energy, in terms of taking on this kind of DEI woke culture that has infected so many parts of our federal government, including our military. Returning us to a meritocracy. He's got a lot in front of them. I'm excited to be a part of it. I can't emphasize enough though, Margaret, on the border, the American people gave him a clear mandate. Lock down our border, deport the worst of the worst, take on the cartels. We cannot have a situation where we have paramilitary gangs that are shooting down aircraft with heavy weapons, controlling 30% of our neighbor, Mexico, and controlling whole swaths of our

border.

MARGARET BRENNAN: You're talking about perhaps an executive order designating cartels as a terrorist group? Or designating in some way

REP. WALTZ: I don't want to get ahead of the announcements, but we have to we have to deal with them with what they are

MARGARET BRENNAN: okay.

REP. WALTZ: These are- these are paramilitary organizations with billions at their disposal, with armored vehicles, heavy machine guns, that are fighting the Mexican army. Not police, army, to a standstill. President Trump was clear on the campaign trail that we're going to take them on and then we're going to use every resource that we need to defend the American people.

MARGARET BRENNAN: We are seeing in our polling that there is a lot of approval for the president elect's plan to deport immigrants who are here illegally. But understanding how that works is something I want to ask you. Can you tell us anything about the scope and scale of the roundups that we should expect in these first few days?

REP. WALTZ: Well, I think they're going to be they're going to be quite aggressive. Number one. Number two, they're going to go after these criminal gangs that are terrorizing our cities, particularly MS 13, and particularly Tren De Aragua, our communities are asking for it. Our neighbors are asking for it--

MARGARET BRENNAN: -- One of those Tren De Aragua-, excuse me- Tren De Aragua is Venezuelan. You can't deport to Venezuela. So where are you going to send those?

REP. WALTZ: Well, we're in a number of conversations with a number of countries that will agree to take them.

MARGARET BRENNAN: Okay, so that's a big diplomatic initiative you're a part of.

REP. WALTZ: That's right. That's right.

MARGARET BRENNAN: I have to ask you about China as well. Xi Jinping is sending a Special Representative to the inauguration. That's highly unusual, not just because of protocol, but because of protocol, but because of the moment in time we are in. Why launch a charm offensive with China at the same time we know that they are embedded in our infrastructure? As you have said, they've planted cyber time bombs.

REP. WALTZ: Yeah, yeah. Xi is sending his Vice President. and President Trump does not believe you can get into the types of deals that he wants to get into, whether it is pushing the Chinese to take on fentanyl, to put a death penalty in place for the producers of fentanyl that know that they are killing hundreds of thousands of Americans, whether it's on trade negotiations, restoring some sense of stability in the Western Pacific and particularly in the South China Sea, unless he has a relationship with the head of state where all the decisions are made--

MARGARET BRENNAN: But as a congressman- as a congressman, you said the US shouldn't go to the Beijing Olympics because of the genocide that China is carrying out against Muslim minorities.

REP. WALTZ: Well, what I said in particular--

MARGARET BRENNAN: -- because of not releasing information about COVID--

REP. WALTZ: the sponsors, the sponsors that are hypocritically, kind of pounding the table about social justice here at home and at the time, this was 21-22 when that was a huge movement here in the United States. I mean, you had the, you know, you had a number of companies talking about Black Lives Matter, social justice here at home, but then we're turning a blind eye to the genocide that was going on over there--

MARGARET BRENNAN: But China is carrying out an attack on the United

REP. WALTZ: But you can't engage in those conversations unless, particularly with a top down authoritarian system like the Chinese Communist Party, unless they have a relationship. And that's President Trump's style. He believes he can enter in these deals with that type of- with that type of regime, only by having a relationship. So that's what he seeks to do.

MARGARET BRENNAN: But- I mean, having a conversation is different than being an honored guest. They are attacking the United States in a massive espionage attack--

REP. WALTZ: -- Well it's not as though he is making-

MARGARET BRENNAN: -- We can't even get them out of the telecom systems--

REP. WALTZ: -- He is not making any concessions on anything. It is about establishing a relationship. Xi declined to come personally, so he's sending his vice president.

MARGARET BRENNAN : Tiktok took itself offline at midnight because of this national security law that you signed on to as- as a congressman which recognizes that TikTok, owned by a Chinese firm, Bytedance, is a national security threat. But on this notice, it says Donald Trump has promised to work with them. If Mr. Trump issues an executive order that bypasses a national security law. Isn't this a risk? How are you going to prevent China from doing what you say they're doing already, which is siphoning up and spying on Americans?

REP. WALTZ: Well look, I would- I would even point to the author of the law, former representative, Mike Gallagher, who has put out, you know, his goal was never to eliminate TikTok. It was to allow Americans to use it, but then to make it safe from Chinese communists.

MARGARET BRENNAN: It was to have an American owner.

REP. WALTZ: Well, right. So what we need between now and Monday is to buy the president some time to evaluate those deals. And if it goes dark, that's going to be, obviously, extremely problematic. So both can be true. We can have an app that Americans can- Americans can enjoy, but at the same time that protects their data and protects them from outside influence and undue influence. And that's the time and space that the President is seeking. And as a deal maker, I think we all should be confident that he can craft that kind of a deal.

MARGARET BRENNAN: Have Tiktok and ByteDance told you that they're actually interested in selling?

REP. WALTZ: Well, the President worked with- spoke with President Xi. Again, very top down authoritarian system that--

MARGARET BRENNAN: -- You think he is the ultimate decider?--

REP. WALTZ: -- and they- and they- and they agreed to work together on this.

MARGARET BRENNAN: So President Xi is acknowledging that he has control of ByteDance and Tiktok?

REP. WALTZ: Not explicitly, but I'll tell you every company in China has, in some way or some form, has to report to, or has a member of the Chinese Communist Party on its board.

MARGARET BRENNAN: And must share information at the request of the Chinese Communist Party?

REP. WALTZ: Well, that was the concern of a lot, right--

MARGARET BRENNAN: -- Exactly. And Tom Cotton is saying that. Just now- the Republican leader on the Intelligence Committee--

REP. WALTZ: -- Sure, sure. And again, you know the- the author of the law is saying both can be true. We can have an app that protects Americans. And I could tell you, I wouldn't want the FBI or the US government monitoring every keystroke or seeing every password, nor would we want the Chinese Communist Party. But we also want an app that 170 million Americans clearly really enjoy and that we were able to get our message out during the Trump campaign in a very powerful way.

MARGARET BRENNAN: So you believe that an American owner will emerge and a deal will be done within 90 days?

REP. WALTZ: I don't want your head of President Trump on the deal, but he is definitely wanting to have the time right now, which would mean an extension to evaluate the deals that are on the table.

MARGARET BRENNAN: Okay, the head of the Republican head of the Intelligence Committee says the law wouldn't allow for that, because you need to show that there is significant progress--

REP. WALTZ: No actually, the law says if there's a viable deal on the table

MARGARET BRENNAN: Right. Exactly.

REP. WALTZ: Right, and I know

MARGARET BRENNAN: -- You're saying there is a viable deal? --

REP. WALTZ: -- I know of at least one from Kevin O'Leary, that's been delivered to ByteDance that the- the point is, what is a viable deal?

MARGARET BRENNAN: Exactly.

REP. WALTZ: The president needs the time with the Department of Justice to evaluate what viable means. We can't do that if the thing is completely dark very.

MARGARET BRENNAN: Very quickly, before I let you go, you told us, as I said, China put cyber time bombs throughout U.S. infrastructure and the U.S. needs to go on offense, to impose higher consequences. Are you going to keep the Biden sanctions related to Salt Typhoon in place? Do they go far enough? Do you have an idea of where you want to go next? ,

REP. WALTZ: Yeah, we're going to, I mean, we need to get our people in place. We need to get Hegseth in as secretary of defense. We need to get Rubio in as secretary of state--

MARGARET BRENNAN: --That could take- Rubio will be quick. Hegseth could take sometime.

REP. WALTZ: Yeah, I think by the end of next week, Pete Hegseth is going to be just fine. So and we need to get John Ratcliffe in place, and we'll come together. My job is to pull the interagency together, tee up options for the President, help him make a decision and then execute. I can just tell you, from my own perspective, as a broader framework, we cannot play perfect defense. We are under a tsunami of cyber attacks, and we just keep trying to defend better. Let's take a hard look at unleashing our private sector and those capabilities. Let's take a hard look at trying to change behaviors in the first place, and that will mean a better, stronger, more capable offensive capability. So that any adversary, if they believe they can destroy our grid, destroy our water supply, destroy our pipelines, if they know we can do the same, then hopefully that prevents it from ever happening in the first place.

MARGARET BRENNAN: Mr. Trump's envoy to Ukraine has set a 100 day timeline for trying to get an end to this war in place. Is there a blueprint? Will Mr. Trump go to Kyiv? When will he meet with Vladimir Putin?

REP. WALTZ: I'm not going to get ahead of all of those things, but I'll tell you the key the key pieces of it. Number one, who do we get to the table? Number two, how do we drive them to the table? And then three, what are the frameworks of a deal? President Trump is clear, this war has to stop. Everyone, I think, should be on board with that. And in fact, Zelenskyy even is walking into the room now saying, we're ready to work with you, President Trump, to stop this war. It is a killing field, Margaret. This is World War One trench warfare with literally a meat grinder of people running across these open fields in eastern Ukraine. But with World War Three escalation consequences. And it's expanding, with North Korea now sending in tens of thousands, South Korea very upset and talking about getting involved in some way. We- you know, this conflict needs to end, and President Trump has been very clear about that and is determined to do it.

MARGARET BRENNAN: I noticed, though, that Mr. Hegseth didn't mention Ukraine once during his opening statement--

REP. WALTZ: I think he was responding more to a whole slew of personal attacks about his character and behavior, which I think speaks to the Democrats and the types of questions they were asking. They didn't ask about from his perspective as Defense Secretary on that

(CROSSTALK)

MARGARET BRENNAN: Well in prepared remarks--

REP. WALTZ: --on cyber, on submarine industrial base, on China's military building--

MARGARET BRENNAN: But you agree character and discipline--

REP. WALTZ: Sure--

MARGARET BRENNAN: --and judgment

REP. WALTZ: And I- I--

MARGARET BRENNAN: --is very important to the job?

(END CROSSTALK)

REP. WALTZ:I proudly introduced him as somebody I've known--

MARGARET BRENNAN: I know.

REP WALTZ: --for over a decade, number one. Number two, that the soldiers who filled the room deeply respect. As the first junior officer, and I think this is really important, he wasn't in the headquarters when our policies drifted in the Middle East leading to decades of war. He was on the front lines. You know, the kind of dust on the boots, dirt under the fingernails type of junior officer that was saying, “What the heck are we doing here? Where is this going? How does this end? What does victory look like?” So I shared that experience with him, was proud to introduce him. And the point I made to the Senate was they have hearing after hearing- I do, too, in the House as a member of the Armed Services Committee, complaining about retention, readiness, industrial based problems, things that cost too much, take too long, deliver half as much as- as promised. And yet, some people are opposed to a disrupter, to a change agent. I'm glad he doesn't have a defense contractor background. I'm glad he wasn't a former general, because that hasn't worked. Enough is enough. It's time for change.

MARGARET BRENNAN: Will you keep U.S.- the 2,000 U.S. troops in Syria to push back against ISIS?

REP. WALTZ: I’m not going to get ahead of, I'm not going to get ahead of the President's decisions. We're not in yet. But the President--

MARGARET BRENNAN: But that's on the table?

REP. WALTZ: Well, he cleaned up ISIS in the first term. When it was--

MARGARET BRENNAN: He wanted to pull those troops out in the first term.

REP. WALTZ: It was a caliphate, but we also destroyed I- this is a president who eliminated Baghdadi, eliminated Soleimani, destroyed the ISIS caliphate, has it contained. I think a valid question is, if the first attacks from ISIS hit Europe, should the Europeans be there in a much stronger way--

MARGARET BRENNAN: Other than the French and Brits who are already supporting (them?)

REP. WALTZ: --in terms of- in terms of keeping a lid on those ISIS camps in eastern Syria, and that's conversations that we'll have right out the gate.

MARGARET BRENNAN: And Iran. They are closer than ever to nuclear breakout, according to U.S. intelligence assessments. Mr. Trump didn't get a diplomatic deal in his first term. He also didn't go to war with Iran. What's his position? Would he support an Israeli strike on Iranian nuclear facilities, which would require U.S. assistance and help and weaponry?

REP. WALTZ: Again, not going to get ahead of those decisions. However--

MARGARET BRENNAN: Seems pretty high up on your to-do.

REP. WALTZ: --Iran, Iran is on its back foot thanks to the leadership of BiBi Netanyahu and the Israelis. Hamas decapitated in an

amazing covert operation, the pager and walkie talkie operation. Everyone said taking out Hezbollah's leader Nasrallah would be too escalatory, too provocative, can't be done. You know what? They did it. And that has now led to a real moment of opportunity in Lebanon. It's led to the fall of Assad and his brutal dictatorship. It's led to Hamas being completely isolated. They always thought the cavalry was going to come from the north with Hezbollah. That's no longer the case, and I think a key reason they've now entered into a deal. And Iran's air defenses are destroyed. So this is a moment to make those key decisions, and we'll be doing that over the next month.

MARGARET BRENNAN: It's a consequential moment, and you'll be on the job starting at noon Monday.

REP. WALTZ: Honor of my life. Thanks so much.

MARGARET BRENNAN: Mike Waltz, thank you. We'll be back in a minute. Stay with us.

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Cc: "Hornbuckle, Wyn (PAO)" (b) (6), "Hinojosa, Xochitl (PAO)" (b) (6), "Iverson, Dena (PAO)" (b) (6) "Argentieri, Nicole M. (CRM)" (b)(6); (b)(7)(C) per CRM
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Importance: Normal
Attachments: 12.5.24_Boeing_Clips.docx
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Good evening,

Attached and below please find PAO's clips for the Boeing case update today.

Thank you,
Alex

Boeing Clips 12.5.24

Print	p. 1
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Print:

The Associated Press: US judge rejects Boeing's plea deal in a conspiracy case stemming from fatal plane crashes *by David Koenig*
Reuters: US judge rejects Boeing plea deal in fatal crashes *by Reuters*
The New York Times: Federal Judge Rejects Boeing's Guilty Plea Related to 737 Max Crashes *by Mark Walker*
The Wall Street Journal: Judge Rejects Boeing Guilty Plea Over DEI Requirement *by Dave Michaels and Andrew Tangel*
The Washington Post: Judge rejects Boeing 737 Max crash plea deal with Justice Department *by Lori Aratani*
CNN: Boeing plea deal related to Max crashes rejected by judge *by Chris Isidore*
NBC News: Court rejects Boeing plea deal tied to 737 Max crashes *by Leslie Josephs*
CBS News: Judge rejects Justice Dept plea deal with Boeing over fatal 737 Max plane crashes *by Robert Legare*
ABC News: Boeing 737 MAX crashes plea deal rejected by judge *by Clara McMichael*
NPR: Court rejects Boeing plea deal stemming from 737 Max crashes *by Joel Rose*
Axios: Federal judge rejects Boeing plea deal over 737 crashes *by Ivana Saric*
Newsweek: Families Speak Out After Judge Rejects Boeing's 'Sweetheart' Plea Deal *by Jesus Mesa*
Semafor: US judge rejects Boeing plea deal over deadly 737 MAX crashes *by Diego Mendoza*
Politico: Judge rejects Boeing's plea deal with DOJ, citing diversity issue *by Oriana Pawlyk*
The Hill: Judge rejects Boeing plea deal in 737 Max crashes *by Taylor Giorno*

Law.com: Judge Rejects Boeing Plea Deal on DEI Grounds *by Greg Andrews*
Financial Times: Boeing's Max plea rejected over terms requiring diversity consideration *by Claire Bushey*
Bloomberg: Boeing Plea Deal Over Fatal 737 Crashes Rejected by Judge *by Madlin Mekelburg*
International Business Times: Judge Rejects Boeing's Plea Deal Connected To Deadly 737 MAX Crashes *by Mark Moore*
Yahoo Finance: Judge cites DEI concerns in rejecting Boeing's plea deal with DOJ *by Alexis Keenan*
BBC News: Boeing plea deal tied to fatal crashes rejected *by Natalie Sherman*

TV:

CNN at 1:47 PM 	**BRIANNA:** This just in: A federal judge has rejected a plea agreement between Boeing and the U.S. government. The company had agreed to plead guilty to deceiving the Federal Aviation Administration about equipment on their 737 Max planes. That same equipment was later tied to two crashes that killed hundreds of people. Under the deal, Boeing would have to pay up to $487 million in fines, just a fraction of the $24.8 billion that families of the victims wanted them to pay. An attorney for those families praised the news, saying, "Rejection of the plea deal is an important victory for the families in this case and, more broadly, for crime victims' interests in the criminal justice process." Boeing has not immediately responded to a request for comment.
Bloomberg at 12:32 PM 	**HOST:** maybe a new ceo. in the last few minutes, breaking news on boeing. shares moving south right now. a plea deal over its fatal 737 max crashes has been rejected by a judge. So once again the headline here is that the plea deal over its fatal 737 max crashes has been rejected by a judge. that stock is losing some ground, off by a third of one percent.
CNBC Fast Money Halftime Report at 12:33 PM 	**HOST:** Dom Chu has a news alert on Boeing. **DOM CHU:** We have our headlines that the U.S. court in the Northern District of Texas has rejected a plea agreement between Boeing in a case involving the 737. The court has ordered Boeing and the U.S. Justice Department to provide the court with an update on how they plan to proceed in this case no later than 30 days from now. Those particular headlines, with regard to the case between the DOJ and the settlement with Boeing, are driving the share price down slightly. You can see Boeing shares taking a slight leg lower. Keep a close eye on this—those are the headlines. I'll send things back over to you guys.

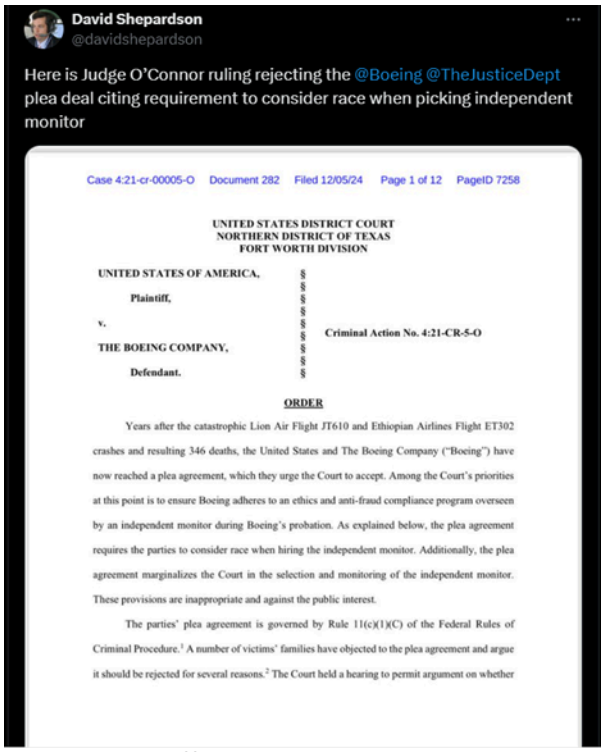
Radio:

Bloomberg at 3:01 PM	**HOST:** A federal judge in Texas has rejected the latest plea deal, a plea deal that is, between Boeing and federal prosecutors over two 737 Max jet crash. US District Judge Reed O'Connor, siding with the family members of those killed in the two Boeing 737 Max crashes, they urged the judge to reject the agreement on the grounds that it failed to adequately hold Boeing accountable using an independent monitor the families what the US Departmentto prosecute Boeing Mark Pegram lost his son Sam, on the Ethiopian Airlines flight **MARK PEGRAM: "**sham of a deal that does not give accountability for 346 deaths."
Bloomberg at 12:35 PM	**DAN FLATLEY:** breaking news on Boeing, the plea deal over a fatal 7 37 Max jet crash reject acted by a judge also rejecting a plea deal over a provision at Boeing, will keep tabs on these stories as we make our way through our one of balance of power.

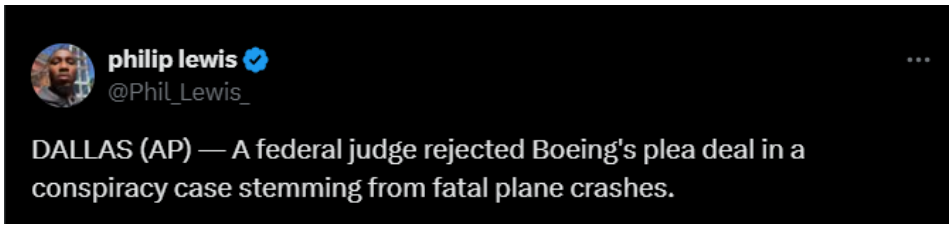
Tweets:

Reporters:

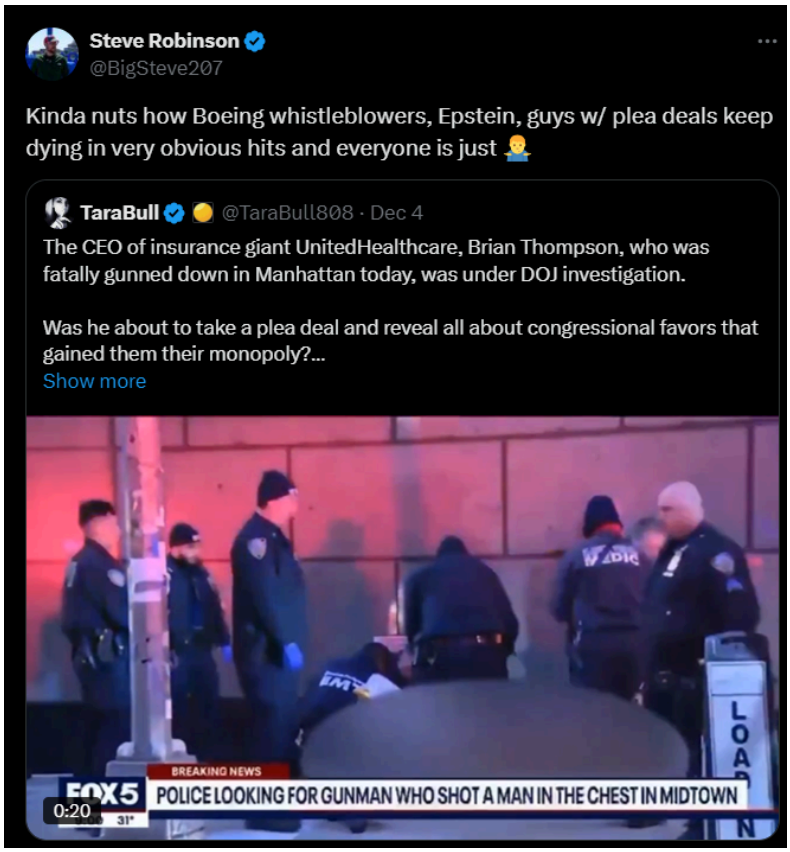
David Shepardson, Detroit News



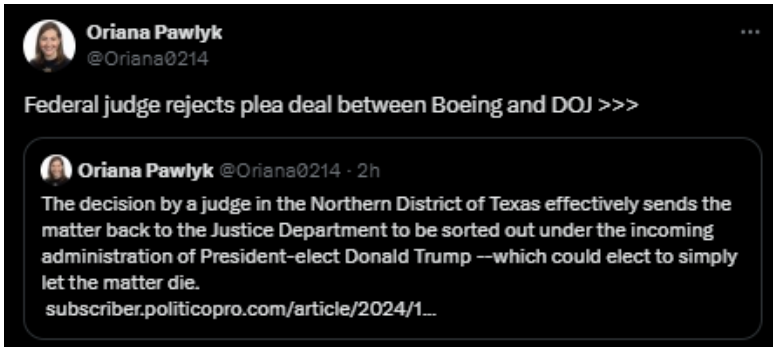
Phill Lewis, HuffPost



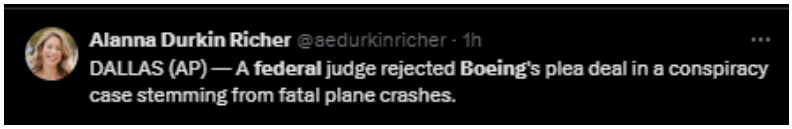
Steve Robinson, The Maine Wire



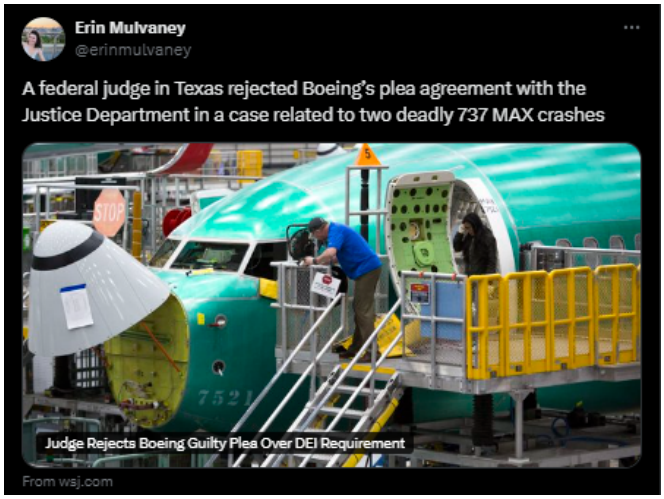
Oriana Pawlyk, Politico



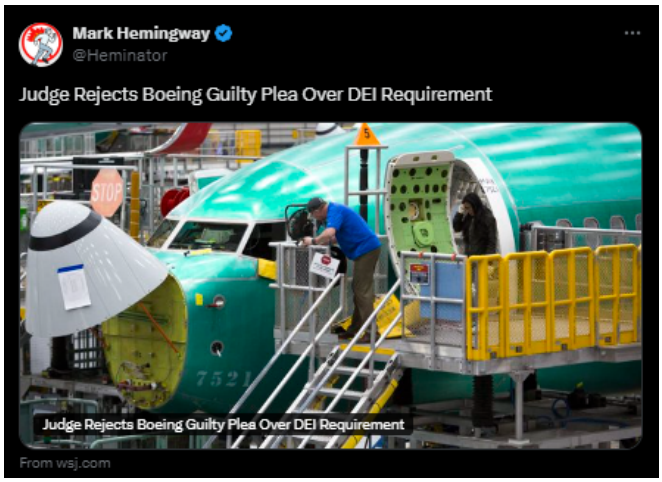
Alanna Durkin, AP



Erin Mulvaney, WSJ

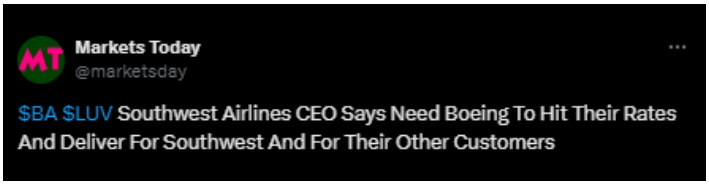


Mark Hemingway, RealClearInvestigations



Others:

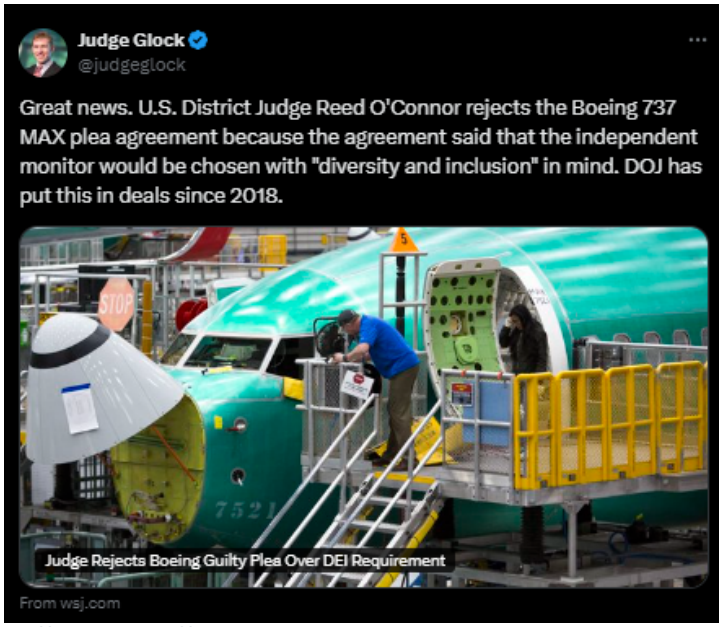
Markets Today



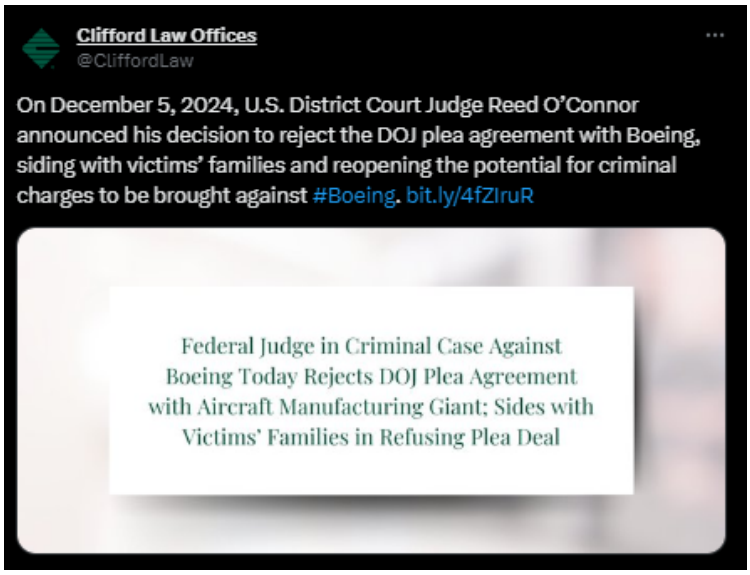
Rod D. Martin, Founder and CEO of The Martin Organization



Judge Glock, MannhattanInst



Clifford Law Office



Full Articles:

The Associated Press: US judge rejects Boeing's plea deal in a conspiracy case stemming from fatal plane crashes *by David Koenig*

DALLAS (AP) — A federal judge on Thursday rejected a deal that would have let Boeing plead guilty to a felony conspiracy charge and pay a fine for misleading U.S. regulators about the 737 Max jetliner before two of the planes crashed, killing 346 people.

U.S. District Judge Reed O'Connor in Texas said that diversity, inclusion and equity or DEI policies in the government and at Boeing could result in race being a factor in picking an official to oversee Boeing's compliance with the agreement.

The ruling creates uncertainty around criminal prosecution of the aerospace giant in connection with the development of its bestselling airline plane.

The judge gave Boeing and the Justice Department 30 days to tell him how they plan to proceed. They could negotiate a new plea agreement, or prosecutors could move to put the company on trial.

The Justice Department said it was reviewing the ruling. Boeing did not comment immediately.

Paul Cassell, an attorney for families of passengers who died in the crashes, called the decision an important victory for the rights of crime victims.

"No longer can federal prosecutors and high-powered defense attorney craft backroom deals and just expect judges to approve them," Cassell said. "Judge O'Connor has recognized that this was a cozy deal between the government and Boeing that failed to focus on the overriding concerns -- holding Boeing accountable for its deadly crime and ensuring that nothing like this happens again in the future."

Many relatives of the passengers who died in the crashes, which took place off the coast of Indonesia and in Ethiopia less than five months apart in 2018 and 2019, have spent years pushing for a public trial, the prosecution of former company officials, and more severe financial punishment for Boeing.

The deal the judge rejected was reached in July and would have let Boeing plead guilty to defrauding regulators who approved pilot-training requirements for the 737 Max nearly a decade ago. Prosecutors said they did not have evidence to argue that Boeing's deception played a role in the crashes.

In his ruling, O'Connor focused on part of the agreement that called for an independent monitor to oversee Boeing's steps to prevent violation of anti-fraud laws during three years of probation.

O'Connor expressed particular concern that the agreement "requires the parties to consider race when hiring the independent monitor … 'in keeping with the (Justice) Department's commitment to diversity and inclusion.'"

O'Connor, a conservative appointed to the bench by President George W. Bush, questioned Justice Department and Boeing lawyers in October about the role of DEI in selection of the monitor. Department lawyers said selection would be open to all qualified candidates and based on merit.

The judge wrote in Thursday's ruling that he was "not convinced … the Government will not choose a monitor without race-based considerations."

"In a case of this magnitude, it is in the utmost interest of justice that the public is confident this monitor selection is done based solely on competency. The parties' DEI efforts only serve to undermine this confidence in the government and Boeing's ethics and anti-fraud efforts," he wrote.

O'Connor also objected that the plea deal called for the government to pick the monitor and for the appointee to report to the Justice Department, not the court. The judge also noted that Boeing would have been able to veto one of six candidates chosen by the government.

Todd Haugh, a business law and ethics expert at Indiana University, could not recall any previous corporate plea deals that were rejected over DEI. He said the larger issue was how the deal took sentencing power away from the court.

"That is a legitimate argument from which to reject a plea agreement, but this particular judge has really stood on this DEI issue," Haugh said. "It comes through loud and clear in the order."

The ruling leaves prosecutors in a bind because they can't simply ignore a government DEI policy that goes back to 2018, he said.

Prosecutors also must weigh the risks and uncertain outcome before pushing for a trial.

Boeing negotiated the plea deal only after the Justice Department determined this year that Boeing violated a 2021 agreement that had protected it against criminal prosecution on the same fraud-conspiracy charge.

Boeing lawyers have said that if the plea deal was rejected, the company would challenge the finding that it violated the earlier agreement. Without the finding, the government has no case.

The judge helped Boeing's position on Thursday, writing that it was not clear what the company did to violate the 2021 deal.

The Justice Department accused Boeing of defrauding Federal Aviation Administration regulators who approved pilot-training requirements for the 737 Max.

Acting on Boeing's incomplete disclosures, the FAA approved minimal, computer-based training instead of more intensive training in flight simulators. Simulator training would have increased the cost for airlines to operate the Max and might have pushed some to buy planes from rival Airbus instead.

When the Justice Department announced in 2021 that it had reached a settlement and would not prosecute Boeing for fraud, families of the victims were outraged. Judge O'Connor ruled last year that the Justice Department broke a victims-rights law by not telling relatives that it was negotiating with Boeing, but said he had no power to overturn the deal.

The 2021 deferred-prosecution agreement was due to expire in January, and it was widely expected that prosecutors would seek to permanently drop the matter. Just days before that, however, a door plug blew off a 737 Max during an Alaska Airlines flight over Oregon.

That incident renewed concerns about manufacturing quality and safety at Boeing, and put the company under intense scrutiny by regulators and lawmakers.

The case is just one of many challenges facing Boeing, which has lost more than $23 billion since 2019 and fallen behind Airbus in selling and delivering new planes.

The company went through a strike by factory workers that shut down most airplane production for seven weeks this fall, and announced that it will lay off 10% of its workers, about 17,000 people. Its shares have plunged about 40% in less than a year.

Reuters: US judge rejects Boeing plea deal in fatal crashes *by Reuters*
Dec 5 (Reuters) - A U.S. judge on Thursday rejected Boeing's agreement to plead guilty to fraud in the wake of two fatal 737 MAX crashes, faulting a diversity and inclusion provision in the deal.

Boeing did not immediately comment. The U.S. Department of Justice, which brokered the plea bargain with Boeing, is reviewing the opinion, a spokesperson said. Boeing and the DOJ's options could include appealing the judge's rejection of the plea deal or presenting a renegotiated agreement for court approval.

U.S. District Judge Reed O'Connor in Fort Worth, Texas, who has a record of ruling in favor of conservative causes, seized on a single sentence in the plea agreement mentioning the DOJ's diversity policy regarding the selection of an independent monitor to audit the planemaker's compliance practices. He had asked both Boeing and prosecutors to further brief him on it in October.

Boeing (BA.N), opens new tab and the DOJ now have 30 days to update the court on how they plan to proceed in the case, O'Connor ruled.

Judges weighing plea deals typically do not upend them over issues that the parties to the agreement have not disputed. In the rare cases that they do, it is usually because the judge wants to impose a different punishment than prosecutors have agreed to.

The plea bargain also "marginalizes" the judge in the selection and oversight of the independent monitor, and forbids imposing a probation condition requiring Boeing to comply with the monitor's anti-fraud recommendations, O'Connor said in his decision. He said the agreement was "not in the public interest."

Relatives of the victims of the two 737 MAX crashes, which occurred in 2018 and 2019 and killed 346 people, have called the plea agreement a "sweetheart" deal that failed to adequately hold Boeing accountable for the deaths of their loved ones.

The two plane crashes occurred in Indonesia and Ethiopia over a five-month period. The families had briefly referenced the DOJ diversity and inclusion policy in court filings opposing the plea agreement, but did not detail concerns about it.

"Judge O'Connor's emphatic rejection of the plea deal is an important victory" for the victims' families, said Paul Cassell, a lawyer representing them.

"Judge O'Connor has recognized that this was a cozy deal between" the government and Boeing "that failed to focus on the overriding concerns: holding Boeing accountable for its deadly crime and ensuring that nothing like this happens again in the future," Cassell said.

Cassell said he hoped the decision would result in the agreement being renegotiated to specifically address the passengers and crew who perished in the plane crashes.

An accepted plea deal would have branded Boeing a convicted felon for conspiring to defraud the U.S. Federal Aviation Administration about problematic software affecting the flight control systems in the planes that crashed.

Boeing had agreed to pay a fine of up to $487.2 million and spend $455 million to improve safety and compliance practices over three years of court-supervised probation as part of the deal.

Victims' relatives want Boeing and its executives charged with crimes holding them responsible for the deaths of their loved ones and any evidence of wrongdoing presented in a public trial. They have also argued Boeing should have to pay up to $24.78 billion in connection with the crashes.

In May, the DOJ found Boeing had violated the terms of a 2021 agreement that had shielded it from prosecution over the crashes. Prosecutors then decided to criminally charge Boeing and negotiate the current plea deal.

The decision followed a Jan. 5 in-flight blowout of a doorpanel on an Alaska Airlines (ALK.N), opens new tab jet that exposed ongoing safety and quality issues at Boeing.

The judge's objections largely centered on the government's diversity and inclusion policy covering the selection of the independent monitor to oversee Boeing for three years.

Such policies are commonly known as diversity, equity and inclusion, or DEI. DEI policies have become a flashpoint in America's culture wars, which refer to conflicts between liberal and conservative values.
Supporters contend the policies combat unconscious bias, inequity and discrimination in hiring while opponents argue they focus on characteristics such as race and gender at the expense of core job qualifications.

"The plea agreement requires the parties to consider race when hiring the independent monitor," O'Connor wrote in his decision. "In a case of this magnitude, it is in the utmost interest of justice that the public is confident this monitor selection is done based solely on competency."

O'Connor, appointed in 2007 by Republican then-President George W. Bush, gained prominence for rulings favoring conservative litigants, including finding Obamacare unconstitutional in a decision the U.S. Supreme Court later reversed.

He also previously invalidated a Biden administration attempt to deter schools from discriminating against students based on gender identity or sexual orientation.

Shirley Emehelu, former New Jersey executive assistant attorney general, said she expected the DOJ and the company would try to renegotiate the deal quickly, though it was unclear if that would be done before President-elect Donald Trump takes office on Jan. 20.

"The monitor that ultimately will be chosen will face the challenge of a remarkable level of scrutiny by the court over their undoubtedly highly complex work," she said.

The New York Times: Federal Judge Rejects Boeing's Guilty Plea Related to 737 Max Crashes *by Mark Walker*
In a rare move, a federal judge on Thursday rejected Boeing's proposed agreement with the Justice Department to plead guilty to conspiracy to defraud the federal government in connection with two fatal 737 Max crashes, according to court documents.

The plea agreement, reached in July, has been a flashpoint for controversy. It would have required Boeing to admit to deceiving the Federal Aviation Administration about critical safety issues tied to a flight control software implicated in both accidents. The crashes, a Lion Air flight in 2018 and an Ethiopian Airlines flight in 2019, killed a total of 346 people.

Judge Reed O'Connor, of the U.S. District Court for the Northern District of Texas, raised concerns on several levels about how the agreement had been handled, including a question about the independent monitor who was to determine if Boeing was abiding by the terms of the agreement. All parties have 30 days to decide how to proceed.

A spokeswoman for the Justice Department said the agency was reviewing the opinion. Boeing did not immediately respond to a request for comment.

Judge O'Connor's ruling is another setback for Boeing and its shareholders, adding one more layer of uncertainty to the company's future as it struggles to move past its legal issues stemming from the 737 Max crashes. The rejection of the settlement puts Boeing's hopes of closing this chapter on hold.

Among the issues raised by Judge O'Connor during an October hearing in Fort Worth, Texas, was that accepting the proposed deal would stop him from levying penalties beyond those already laid out in the deal.

In his ruling, the judge said the plea agreement's process for selecting the independent monitor, including prohibiting the judge from considering violations of the monitor's anti-fraud recommendations, improperly marginalizes the court's authority to oversee the case. The judge pointed out that the federal government has monitored Boeing for three years and that "it is fair to say the government's attempt to ensure compliance has failed."

Judge O'Connor also ruled that the plea agreement unfairly constrained the court by mandating diversity requirements in the selection of an independent monitor tasked with overseeing Boeing's future anti-fraud compliance.

"Marginalizing the court in the selection and monitoring of the independent monitor as the plea agreement does undermines public confidence in Boeing's probation, fails to promote respect for the law and is therefore not in the public interest," Judge O'Connor wrote.

The proposed agreement included a fine of up to $487 million, credits for prior payments that could significantly reduce the penalty, and a three-year probation period during which Boeing would invest $455 million in safety measures.

Lawyers for some victims' families have staunchly opposed the plea deal, arguing that it inadequately holds Boeing, and especially its executives, accountable for the tragedies.

Paul G. Cassell, an attorney representing the families, hailed the ruling as a victory.

"Judge O'Connor's emphatic rejection of the plea deal is an important victory for the families in this case and, more broadly, for crime victims' interests in the criminal justice process," Mr. Cassell said in a statement.

The ruling is not expected to have an immediate effect on Boeing, which is in the process of increasing production of the 737 Max, its most popular jet. The F.A.A. restricted output of the plane after a panel blew off a Max in flight in January. Manufacturing was also essentially frozen for two months this fall when thousands of production workers went on strike. They returned to work last month.

The panel incident resulted in no major injuries, but reignited concerns about the quality and safety of Boeing's planes. To address those concerns, Boeing has changed processes and procedures, added more training and inspections, begun the process of buying Spirit AeroSystems, a major supplier, and undergone a management shake-up.

Boeing's new chief executive, Kelly Ortberg, who assumed the role in August, has said that the company is need of "fundamental culture change." He has also announced a corporate restructuring that includes cutting 17,000 jobs, or about 10 percent of Boeing's work force.

The Wall Street Journal: Judge Rejects Boeing Guilty Plea Over DEI Requirement *by Dave Michaels and Andrew Tangel*
A federal judge in Texas rejected Boeing's plea deal with the Justice Department in a case related to two deadly 737 MAX crashes, criticizing the agreement's diversity aims.

U.S. District Judge Reed O'Connor said that the plea deal inappropriately tied the court's hands by imposing diversity considerations on the appointment of an outside monitor who would oversee Boeing's future legal compliance.

O’Connor wrote that prosecutors gave “shifting and contradictory explanations” of the role that race or diversity would play in the selection of a monitor. “In a case of this magnitude, it is in the utmost interest of justice that the public is confident this monitor selection is done based solely on competency,” wrote O’Connor, an appointee of President George W. Bush.

The crash scene of an Ethiopian Airlines 737 MAX in 2019. Photo: Mulugeta Ayene/Associated Press

The decision casts fresh uncertainty into a yearslong legal odyssey that began after two 737 MAX crashes took 346 lives and was revived earlier this year when a fuselage panel blew out on the same type of jet, operated by Alaska Airlines, in January.

The judge’s decision injects another variable into Boeing’s current crisis. The company has recently considered asset sales as it seeks to refocus its business and raise cash. It endured a weekslong strike with its largest labor union that stalled factories, and its credit rating has flirted with junk status.

A Justice Department spokeswoman said prosecutors are reviewing the decision but declined to comment further. Boeing didn’t immediately comment.

It isn’t clear what immediately comes next. The judge ordered both sides to update him within 30 days on how they plan to proceed. Boeing shares declined 0.6% in midday trading, in line with U.S. stock indexes.

The Justice Department in May accused Boeing of violating its corporate probation over a fraud-conspiracy charge related to the 2018 and 2019 crashes. Prosecutors then asked the company to plead guilty to the charge, and Boeing in July agreed to do so.

Compliance monitors are sometimes part of a corporate criminal settlement, but they can be controversial. Companies typically oppose monitors, citing the cost of their services and the monitor’s incentive to identify other problems that get reported to prosecutors.

In his ruling, O’Connor took issue with the Justice Department’s citation of a 2021 Biden administration executive order, intended to promote DEI policies at federal agencies. The judge wrote that it appears “to encourage consideration of race in hiring,” which he added would inject discrimination into the monitor selection process.

O’Connor highlighted how Boeing removed material related to its DEI goals from its website, after the judge sought more information from the company and Justice Department on the subject.

But the judge said that the company didn’t appear to change its underlying corporate policy, which he said could lead Boeing to oppose a monitor in “a discriminatory manner and with racial considerations,” O’Connor wrote.

A lawyer for the crash victims’ families praised the judge’s ruling. Photo: SARAH SILBIGER/REUTERS

O’Connor on Thursday also criticized how the Justice Department oversaw the probationary agreement, which was struck in the final days of the Trump administration. Boeing admitted at the time that two former employees misled the FAA about a new flight-control feature on the 737 MAX that wasn’t supposed to activate in normal flying conditions.

Boeing paid a $244 million criminal fine under the 2021 criminal settlement. It otherwise received leniency, however, avoiding a guilty plea at the time and instead landing a form of corporate probation.

The resolution required Boeing to report its compliance-program improvements to the Justice Department. The company had pledged to make certain improvements during three years of corporate probation, but after the Alaska blowout, prosecutors said Boeing hadn’t lived up to its promises.

“It is fair to say the government’s attempt to ensure compliance has failed,” O’Connor wrote, explaining why he believes the monitor should report to the court and not to the Justice Department.

Paul Cassell, a lawyer for the crash victims' families, praised the judge's ruling. Families of the crash victims had asked O'Connor to reject the deal, saying it was too lenient on Boeing.

Cassell said the families would seek a stronger agreement that holds Boeing accountable and seeks appropriate monitorship to prevent future disasters. He called the plea agreement "a cozy backroom deal negotiated by the prosecutors and the high-powered defense team."

As part of a plea to one count of conspiracy to defraud the U.S., prosecutors had secured a commitment by the company to pay a second $244 million criminal fine and spend at least $455 million over the next three years to improve its compliance and safety programs. An independent monitor oversee Boeing's adherence to those improvements.

Without a plea agreement in place, federal prosecutors will either have to strike a new deal for the company's guilty plea, proceed to a trial or drop the case.

The Washington Post: Judge rejects Boeing 737 Max crash plea deal with Justice Department *by Lori Aratani*
A federal court judge Thursday rejected a plea agreement between the Justice Department and Boeing citing concerns that diversity is among the criteria that would be used to select the independent monitor charged with ensuring that Boeing complies with its agreement with the government.

"In a case of this magnitude, it is in the utmost interest of justice that the public is confident this monitor selection is done based solely on competency," wrote District Court Judge Reed O'Connor of the Northern District of Texas. "The parties' DEI efforts only serve to undermine this confidence in the Government and Boeing's ethics and antifraud efforts. Accordingly, the diversity-and-inclusion provision renders the plea agreement against the public interest."

O'Connor also wrote that the compliance monitor provisions also "erroneously marginalize" the court, which "undermines public confidence in Boeing's probation, fails to promote respect for the law, and is therefore not in the public interest." He noted that the government's efforts to ensure Boeing's compliance have failed.

O'Connor's decision means the fate of one of the longer-running legal battles over the aerospace giant's responsibility for two 737 Max plane crashes that killed 346 people is still unresolved.

Boeing had no immediate comment on the decision. A Justice Department official said attorneys are reviewing the opinion.

However, attorneys for the families hailed the judge's decision because they oppose the deal, saying it doesn't change Boeing culture or safety issues.

"Judge O'Connor's emphatic rejection of the plea deal is an important victory of the families in this case and, more broadly, crime victims' interests in the criminal justice process," Paul Cassell, a professor at the University of Utah College of Law and former federal judge who is representing the families in the case, said via email. "No longer can federal prosecutors and high-powered defense attorneys craft backroom deals and just expect judges to approve them. Victims can object — and when they have good reasons for striking a plea, judges will respond."

Added Erin Applebaum, a partner with Kreindler & Kreindler who represents 34 families who lost loved ones in the Ethiopian Airlines crash in a separate civil case: "We anticipate a significant renegotiation of the plea deal that incorporates terms truly commensurate with the gravity of Boeing's crimes. It's time for the DOJ to end its lenient treatment of Boeing and demand real accountability."

Under the terms of the agreement Boeing agreed to plead guilty to one count of fraud; pay $243.6 million in penalties; invest $455 million to strengthen its safety, quality and compliance programs; and submit to oversight by an independent monitor for three years.

Justice Department officials have pushed back against criticism of the deal, arguing in court that the agreement "ensures Boeing is held fully accountable for its criminal conduct and the financial benefits the Company reaped from that conduct (and for breaching a prior agreement)."

Prosecutors said that despite the passionate advocacy of the victims' families, there is no evidence that "could prove beyond a reasonable doubt that Boeing's fraud caused the deaths of their loved ones."

Initially, it appeared that Boeing would not face prosecution in connection with the two crashes after reaching a deferred prosecution agreement with the Justice Department in January 2021. However, a door panel blowout aboard a 737 Max jet in early January this year renewed scrutiny of the company's operations, and in May prosecutors announced that the company failed to live up to the terms of the deferred prosecution agreement and could be criminally prosecuted.

Family members had hoped the determination that Boeing was in breach of the original plea agreement would prompt the Justice Department to take a harder line against the company. In the end, though, Justice Department officials declined to go to trial, arguing the plea deal would guarantee the company would be held accountable.

O'Connor gave the two sides 30 days to provide an update on how they plan to proceed with the case.

CNN: Boeing plea deal related to Max crashes rejected by judge *by Chris Isidore*
A federal judge on Thursday rejected a plea agreement between Boeing and the US government after the company said it would plead guilty to deceiving the Federal Aviation Administration ahead of two fatal 737 Max crashes.

The rejection by US District Court Judge Reed O'Connor citied his problems with the selection process for a independent monitor required in the plea deal to oversee safety and quality improvement at Boeing.

Boeing agreed in July to plead guilty to one charge of conspiracy to defraud the United States. Under the plea agreement it would pay up to $487 million in fines — a fraction of the $24.8 billion that families of victims of the two crashes want the company to pay.

O'Connor had problems with the idea that the Justice Department, not the court, would have approval over the selection of the monitor and how Boeing had performed under an earlier settlement with the Justice Department in January 2021 over the same charges. That agreement had deferred prosecution until the safety issues were again raised by a door plug blowing off a 737 Max plane flown by Alaska Airlines in January.

"It is fair to say the government's attempt to ensure compliance has failed," O'Connor wrote in his opinion. "At this point, the public interest requires the court to step in. Marginalizing the court in the selection and monitoring of the independent monitor as the plea agreement does undermines public confidence in Boeing's probation."

One of O'Connor's problems with the plea agreement was that the Justice Department had said Boeing and Justice would have to consider race when hiring the independent monitor. But he also was upset that the court did not have a role in the selection process.

The families argued that the amount of the fine amounted to a sweetheart deal for Boeing, letting it off the hook for the two fatal crashes that were caused by a design flaw on the planes. They argue that Boeing's previous profits on every plane sold would allow for a much larger fine than the one the Justice Department argues it can justify under the plea agreement.

"Rejection of the plea deal is an important victory of the families in this case and, more broadly, crime victims' interests in the criminal justice process," said Paul Cassell, attorney for family members of crash victims, in a statement. "No longer can federal prosecutors and high-powered defense attorney craft backroom deals and just expect judges to approve them. Victims can object – and when they have good reasons for striking a plea, judges will response."

“This order should lead to a significant renegotiation of the plea deal to reflect the 346 deaths Boeing criminally caused and put in place proper monitoring of Boeing to ensure that it never again commits a crime like this in the future,” he added.

Boeing did not immediately respond to a request for comment.

Under the July plea agreement Boeing also agreed to spend $455 million on its compliance and safety programs over the next three years, which the government said would represent a 75% increase over what the company was spending annually on those programs.

But the biggest change under the plea agreement was that Boeing agreed to operate under the supervision of a court-appointed monitor for a period of three years to make sure it improved the quality and safety of its aircraft.

The plea represented yet another black eye for the company after a series problems, ranging from embarrassing to tragic, for the company over the last six years. And it was a severe blow to the reputation of Boeing, a company once known for the quality and safety of its commercial aircraft.

According to the charges, the company defrauded the Federal Aviation Administration during the process of certifying the 737 Max to carry its first passengers.

The plane started service in 2017, but the two fatal crashes – in October 2018 and March of 2019 – led to a 20-month grounding of the jets, and investigations revealed a design flaw in its autopilot system. Boeing has admitted responsibility for the fatal crashes, and that its employees withheld information about the design flaw from the FAA during certification.

“Boeing profoundly regrets the accidents and the unspeakable losses that the crash victim representatives have suffered,” attorneys for the company said in an August filing in the case. “Boeing, for its part, has accepted responsibility for the Max crashes, publicly and in civil litigation, because the design of (a feature on the Max) contributed to those accidents.”

But Boeing argued in the filing that the misleading information it has admitted giving to the FAA during the certification process did not itself cause the crash.

And in its own filing in August, the Justice Department essentially agreed with that argument from Boeing.

“Yet in the end… (DOJ officials have) not found the one thing that underlies the families’ most passionate objections to the proposed resolution: evidence that could prove beyond a reasonable doubt that Boeing’s fraud caused the deaths of their loved ones,” said the Justice Department’s filing in support of the plea agreement.

NBC News: Court rejects Boeing plea deal tied to 737 Max crashes *by Leslie Josephs*
A federal judge rejected Boeing’s plea deal tied to a criminal fraud charge stemming from fatal crashes of its 737 Max aircraft.

U.S. District Judge Reed O’Connor of the U.S. District Court for the Northern District of Texas expressed concern in his decision on Thursday that a government-appointed monitor, a condition of the plea deal, would include diversity, equity and inclusion policiies.

He wrote that “the Court is not convinced in light of the foregoing that the Government will not choose a monitor without race-based considerations and thus will not act in a nondiscriminatory manner. In a case of this magnitude, it is in the utmost interest of justice that the public is confident this monitor selection is done based solely on competency.”

In October, O’Connor ordered Boeing and the Justice Department to provide details on diversity, equity and inclusion policies when the monitor would be selected.

The court gave Boeing and the Justice Department 30 days to decide how to proceed, according to a court document filed Thursday.

In July, Boeing agreed to plead guilty to a criminal charge of conspiring to defraud the U.S. government by misleading regulators about its inclusion of a flight-control system on the Max that was later implicated in the two crashes — a Lion Air flight in October 2018 and an Ethiopian Airlines flight in March 2019. All 346 people on the flights were killed.

Boeing and the Justice Department didn't immediately comment.

Victims' family members had taken issue with a government-appointed monitor as a condition of the plea deal and sought to provide more input. They called it a "sweetheart deal."

Erin Applebaum, an attorney representing one of the victim's family members applauded the deal. "We anticipate a significant renegotiation of the plea deal that incorporates terms truly commensurate with the gravity of Boeing's crimes," Applebaum said in a statement. "It's time for the DOJ to end its lenient treatment of Boeing and demand real accountability."

The deal was set to allow Boeing to avoid a trial just as it was trying to get the company back on solid footing after a door burst off of a flight in midair at the start of the year, reigniting a safety crisis at the manufacturer.

The new plea deal arose after the Justice Department said in May that Boeing violated a previous plea agreement, which was set to expire days after the door plug blew off the 737 Max 9 on Jan. 5. O'Connor said in his decision on Thursday that it "is not clear what all Boeing has done to breach the Deferred Prosecution Agreement."

Under the new plea agreement, Boeing was set to face a fine of up to $487.2 million. However, the Justice Department recommended that the court credit Boeing with half that amount it paid under a previous agreement, resulting in a fine of $243.6 million.

CBS News: Judge rejects Justice Dept plea deal with Boeing over fatal 737 Max plane crashes *by Robert Legare*
A federal judge in Texas rejected a proposed plea agreement between the Justice Department and Boeing that would have settled the U.S. government's claims against the company, after crashes of two 737 Max jetliners that killed 346 people, according to a court order issued Thursday.

In his ruling, Judge Reed O'Connor took issue with both a lack of judicial oversight and certain diversity requirements included in the deal's independent monitoring process and ordered the parties to provide the court with a plan for possible ways forward early next month.

The federal government's proposed agreement with airplane manufacturing giant over the deadly crashes included various provisions, including an admission of guilt to one count of conspiracy to defraud the United States and a $243.6 million fine — much less than the billions the families of the victims had requested. The deal would also have required Boeing to spend $455 million on safety programs and to work with an independent monitor who would oversee the company's progress.

Investigators alleged in court records that leading up to the crashes, Boeing deceived federal officials who regulated the planes. In 2021, Boeing and the Justice Department entered into a deferred prosecution agreement, which meant the criminal charge would have been dropped if Boeing had complied with the terms of the deal. But earlier this year, federal prosecutors informed the court that Boeing had not followed through on all of the requirements and intended to move forward with the case.

By July, after weeks of negotiations, Boeing and the Justice Department settled on the proposed plea agreement, prompting an outcry from families of those who died in the crashes. At the time, CBS News reported the deal only covered wrongdoing by Boeing tied to the crashes and did not give the company immunity for other incidents, including a door panel that blew off a Max jetliner during an Alaska Airlines flight in January. According to a Justice

Department official, the proposed agreement also did not cover any current or former Boeing officials, only the corporation.

Attorneys for some of the victims' families opposed the deal, arguing the "rotten" agreement with the government did not justly remedy the families' claims against Boeing. In court filings, they accused Boeing of more criminality and urged stricter penalties, harsher monitoring and recognition of the lives lost.

In rejecting the plea agreement, the judge took aim at diversity, equity and inclusion considerations that the parties said they would take when hiring an independent monitor. He wrote that he was "concerned with the Government's shifting and contradictory explanations of how the plea agreement's diversity-and-inclusion provision will practically operate in this case."

Judge O'Connor had previously raised this issue and in responsive court filings, the Justice Department defended the language, arguing it predated the Boeing agreement. "This new language reflected not a change in policy but rather a principle that has always governed the process: that selection of a monitor must be based solely on merit, from the broadest possible pool of qualified candidates," they said.

O'Connor ruled Thursday that the language was inappropriate: "In a case of this magnitude, it is in the utmost interest of justice that the public is confident this monitor selection is done based solely on competency. The parties' DEI efforts only serve to undermine this confidence in the Government and Boeing's ethics and anti-fraud efforts."

The judge also wrote that the Justice Department's previous efforts to oversee Boeing's conduct "failed" and said the independent monitor provision in the proposed deal did not go far enough to include the court in the process.

"At this point, the public interest requires the Court to step in. Marginalizing the Court in the selection and monitoring of the independent monitor as the plea agreement does undermines public confidence in Boeing's probation, fails to promote respect for the law, and is therefore not in the public interest," O'Connor wrote, "Accordingly, the Court cannot accept the plea agreement."

The Justice Department said it's reviewing the decision. Boeing did not immediately respond to requests for comment.

In a statement, Paul Cassell, an attorney for some of the victims' families, told CBS News, "Judge O'Connor has recognized that this was a cozy deal between the Government and Boeing that failed to focus on the overriding concerns – holding Boeing accountable for its deadly crime and ensuring that nothing like this happens again in the future."

ABC News: Boeing 737 MAX crashes plea deal rejected by judge *by Clara McMichael*
A Texas judge has rejected the plea deal between Boeing and the Department of Justice in which the aircraft manufacturing giant agreed to plead guilty to conspiracy to defraud the United States and pay a fine of at least $243 million after the two 737 MAX crashes in 2018 and 2019.

Over 340 people died in the two crashes, the first of which occurred in Indonesia in October 2018 and the second five months later in Ethiopia.

U.S. District Judge Reed O'Connor rejected the plea deal due to requirements that the government's diversity, equity and inclusion (DEI) policies be considered when the government selected an independent compliance monitor for Boeing. At a hearing in October, the judge asked how the government and Boeing's DEI policies would affect choosing the monitor.

"In a case of this magnitude, it is in the utmost interest of justice that the public is confident this monitor selection is done based solely on competency," O'Connor wrote in his ruling. "The parties' DEI efforts only serve to undermine this confidence in the Government and Boeing's ethics and anti-fraud efforts. Accordingly, the diversity-and-inclusion provision renders the plea agreement against the public interest."

“It is fair to say that the Government’s attempt to ensure compliance has failed,” O'Connor wrote. "At this point, the public interest requires the Court to step in. Marginalizing the Court in the selection and monitoring of the independent monitor as the plea agreement does undermines public confidence in Boeing’s probation, fails to promote respect for the law, and is therefore not in the public interest.”

Boeing did not immediately respond to an ABC News request for comment on the ruling.

Families of the crash victims considered the judge’s decision a victory.

“Judge O’Connor has recognized that this was a cozy deal between the Government and Boeing that failed to focus on the overriding concerns – holding Boeing accountable for its deadly crime and ensuring that nothing like this happens again in the future,” said Paul Cassell, a lawyer representing families of the MAX crash victims, told ABC News. “This order should lead to a significant renegotiation of the plea deal to reflect the 346 deaths Boeing criminally caused and put in place proper monitoring of Boeing to ensure that it never again commits a crime like this in the future.”

"This is an excellent decision by Judge O’Connor and a significant victory for the victims’ families” said Erin Applebaum, a lawyer at the firm Kreindler & Kreindler, which represents 34 families of people who died on the Ethiopian Airlines flight. “We anticipate a significant renegotiation of the plea deal that incorporates terms truly commensurate with the gravity of Boeing’s crimes. It’s time for the DOJ to end its lenient treatment of Boeing and demand real accountability."

According to court documents, Boeing and the DOJ must update the court within 30 days regarding how they plan to proceed.

NPR: Court rejects Boeing plea deal stemming from 737 Max crashes *by Joel Rose*
A federal judge in Texas has rejected a proposed plea deal between Boeing and the U.S. Justice Department, saying the court should play a bigger role in selecting an independent monitor to oversee the company.

The decision is a victory for family members of people killed in the deadly crashes of two Boeing 737 Max jets, who opposed an agreement they argued was too lenient.

Judge Reed O'Connor in Fort Worth, Texas objected to the framework that Boeing and the Justice Department crafted to select an independent monitor.

"Marginalizing the Court in the selection and monitoring of the independent monitor as the plea agreement does undermines public confidence in Boeing's probation," O'Connor wrote in an order published Thursday.

The judge also objected to a requirement that the monitor selection process adhere to the DOJ's diversity and inclusion policy.

"It is in the utmost interest of justice that the public is confident this monitor selection is done based solely on competency," O'Connor wrote in his ruling. "The parties' DEI efforts only serve to undermine this confidence in the Government and Boeing's ethics and anti-fraud efforts."

The agreement between Boeing and the DOJ stems from the crashes of two 737 Max jets in 2018 and 2019 that killed 346 people.

Under the deal, Boeing agreed to plead guilty to a single count of conspiracy to defraud regulators about the safety of those planes, and to pay a fine of more than $240 million. The aerospace giant would also be put on probation, and subject to an independent compliance monitor — selected by the Justice Department, with input from Boeing — for three years.

Boeing and the DOJ reached a similar agreement in 2021. But after a door plug panel blew out of a Boeing 737 Max jet in midair in January, federal prosecutors concluded that Boeing had failed to hold up its end of the deal.

In his order, Judge O'Connor gave Boeing and the DOJ 30 days to confer and update the court on their next steps.

Axios: Federal judge rejects Boeing plea deal over 737 crashes *by Ivana Saric*
A federal judge on Thursday rejected Boeing's plea deal over a criminal fraud charge stemming from two fatal 737 crashes in 2018 and 2019.

Why it matters: The plane crashes in Indonesia and Ethiopia killed a total of 346 people and ignited scrutiny about quality control and safety at Boeing — concerns that have only become starker in recent years.

- If the deal had gone through, it would have tarnished one of the world's biggest aerospace companies with a felony conviction.
- Now, Boeing and the Justice Department have 30 days to provide the court with a new plan for how they wish to proceed, Judge Reed O'Connor wrote in a court filing Thursday.

Catch up quick: Boeing agreed in July to plead guilty to the charge of conspiring to defraud the federal government and to pay $487.2 million in penalties.

- It also agreed to invest at least $455 million over three years to bolstering its compliance and safety programs and to allow a government-appointed independent monitor to track compliance with safety measures.
- However, the victims' families criticized the deal at the time, calling it a "sweetheart deal" that gave undue concessions to Boeing.

State of play: In the court filing Thursday, O'Conner noted that many victims' families opposed the government-appointed monitor and believed the monitor should be selected by, and report to, the court.

- O'Conner also took issue with the fact that the monitor's selection would take DEI provisions into account.
- "The Court is not convinced ... that the Government will not choose a monitor without race-based considerations and thus will not act in a nondiscriminatory manner," O'Conner wrote.
- In October, O'Conner ordered Boeing and the Justice Department to provide details about the diversity, equity and inclusion policies on the selection of the monitor, Reuters reported.

What they're saying: "This is an excellent decision by Judge O'Connor and an important victory for the victims' families," attorney Erin Applebaum, which represents some of the victims' families, said in a statement Thursday.

- "We anticipate a significant renegotiation of the plea deal that incorporates terms truly commensurate with the gravity of Boeing's crimes," Applebaum added.
- "It's time for the DOJ to end its lenient treatment of Boeing and demand real accountability."
- Boeing and the Justice Department did not immediately respond to Axios' requests for comment.

Newsweek: Families Speak Out After Judge Rejects Boeing's 'Sweetheart' Plea Deal *by Jesus Mesa*
Afederal judge has rejected Boeing's controversial plea deal with the Department of Justice (DOJ), describing the agreement as inadequate and a betrayal of the families of the 346 people killed in two Boeing 737 Max crashes.

The ruling by U.S. District Judge Reed O'Connor in Texas casts uncertainty over Boeing's criminal case, prompting the company and the DOJ to consider renegotiating the plea agreement.

"I am pleased to see the judge reject this inappropriate and inadequate deal that failed to serve justice or improve public safety. I hope the Department of Justice takes this opportunity to hold Boeing accountable for the deaths of 346 people," Javier de Luis of Massachusetts, who lost his sister Graziella in one of the crashes, told Newsweek.

"The judge did the right thing by throwing out this terrible plea deal. It was nothing more than a 'get out of jail free' card for Boeing," Ike and Susan Riffel of California, who lost their two sons, Melvin and Bennett, told Newsweek.

The DOJ and Boeing now have 30 days to determine the next steps, which could include renegotiating the plea agreement or preparing for trial. The ruling highlights a growing push for stronger corporate accountability in cases involving criminal negligence that results in loss of life.

Erin Applebaum, an attorney representing some of the families, called O'Connor's decision an important victory. She told Newsweek she expects significant developments in the coming months.

"We anticipate a significant renegotiation of the plea deal that incorporates terms truly commensurate with the gravity of Boeing's crimes. It's time for the DOJ to end its lenient treatment of Boeing and demand real accountability," Applebaum said.

Paul Cassell, another attorney for the victims' families and a professor at the University of Utah's S.J. Quinney College of Law, echoed Applebaum's remarks.

"Judge O'Connor's emphatic rejection of the plea deal is an important victory for the families and, more broadly, for crime victims' interests in the criminal justice process," Cassell told Newsweek on Thursday.

In his ruling, O'Connor expressed skepticism about provisions in the plea agreement, particularly the appointment of a compliance monitor. He raised concerns about the selection process for the monitor, emphasizing the importance of public confidence in the impartiality of such oversight.

"The families would like to have the independent compliance monitor selected by the court. The monitor should also report to the court in order to guarantee Boeing's compliance," Paul Njoroge of Canada, who lost his wife and three young children in the crash, told Newsweek.

The rejected plea deal, criticized as a "sweetheart deal" by one of the victims' lawyers, would have allowed Boeing to plead guilty to a single felony count of conspiracy to commit fraud. This charge stemmed from allegations that Boeing misled regulators about pilot training requirements for the 737 Max nearly a decade ago.

In exchange, the company would avoid a trial, pay a $243.6 million fine, undergo three years of probation with a "handpicked" monitor and meet with the victims' families.

Applebaum said the families "welcomed the decision" after they had "vigorously opposed" the deal, which they argued "falsely depicts itself as a punishment." Since July, attorneys for the families have been lobbying for the deal's rejection.

The crashes of Lion Air Flight 610 in 2018 and Ethiopian Airlines Flight 302 in 2019 were both linked to a flawed flight control system called the Maneuvering Characteristics Augmentation System. Investigations revealed that Boeing had downplayed the significance of MCAS to regulators to avoid costly pilot training requirements—a move critics argue prioritized profits over safety.

Relatives of the passengers, who perished in crashes off the coast of Indonesia and in Ethiopia less than five months apart, have spent years demanding a public trial, the prosecution of former company officials and harsher financial penalties for Boeing.

Victims' families remain steadfast in their demands for justice. "This decision is a step toward justice," Applebaum said. "We will continue fighting until there is accountability that matches the gravity of these tragedies."

Cassell said: "No longer can federal prosecutors and high-powered defense attorneys craft backroom deals and expect judges to rubber-stamp them. Victims can object—and when they present compelling reasons, judges will respond."

Semafor: US judge rejects Boeing plea deal over deadly 737 MAX crashes *by Diego Mendoza*
A US judge rejected federal prosecutors' deal with Boeing to plead guilty in a criminal case involving the fatal crashes of two of the aerospace giant's 737 MAX planes.

The judge took issue with provisions in the deal for choosing an independent monitor that would require considering race and diversity during the appointment process.

The decision is a victory for families of victims killed in the 2018 and 2019 crashes, who had called the plea bargain a "sweetheart deal" and urged the judge to reject it.

Under the agreement, Boeing would have pled guilty to defrauding investors by misguiding them about a software feature that caused the two crashes and pay more than $243 million in fines — less than 0.5% of the company's 2023 revenue — avoiding a trial.

Boeing and prosecutors now have 30 days to update the court on how they wish to proceed.

Politico: Judge rejects Boeing's plea deal with DOJ, citing diversity issue *by Oriana Pawlyk*
A federal judge on Thursday rejected a plea deal that had been inked between Boeing and the Justice Department earlier this year alleging the planemaker had committed fraud related to 737 MAX crashes overseas more than five years ago.

The decision by Judge Reed O'Connor in the Northern District of Texas effectively sends the matter back to the Justice Department to be sorted out, including potentially by the incoming administration of President-elect Donald Trump, which could elect to simply let the matter die.

In rejecting the deal, which was reached after DOJ alleged that the airplane manufacturer had violated a previous plea agreement related to two 737 MAX crashes in Indonesia and Ethiopia in 2018 and 2019 that killed 346 people, O'Connor said his decision was rooted in concerns about diversity policies at both Boeing and DOJ that may have influenced the government's decision in selecting an independent monitor to oversee Boeing.

"The Court is concerned with the Government's shifting and contradictory explanations of how the plea agreement's diversity-and-inclusion provision will practically operate in this case," O'Connor said in the 12-page decision. Overall, O'Connor said the general monitor provisions are against the public interest; he also noted that victims' families also objected to the oversight process (some families of crash victims have said they want to have final say over the independent monitor).

O'Connor's concern appears to have stemmed from a previous request from the victims' families asking that they have final say on who should monitor Boeing, "in keeping with the Department's commitment to diversity and inclusion."

In October, O'Connor determined it was important to know how diversity policies, if a factor, still ensure "safety and compliance efforts as a result of Boeing's fraudulent misconduct" and how the company's internal focus on diversity and equity "impacts its compliance and ethics obligations."

In its response, DOJ defended its policies, repeatedly stressing that regardless of the broad pool of candidates considered for the role, it "must select and does select the most qualified candidate irrespective of race or gender, or any other non-merit factor."

In its own filing, Boeing at the time said the aerospace company "does not compromise on merit or talent in pursuit of those aspirations and has a merit-based performance system with procedures aimed at encouraging an equality of opportunity, not of outcomes," adding that it strictly observes the law prohibiting discrimination and "does not employ racial quotas in hiring or promotion decisions."

Boeing did not immediately respond to requests for comment. A DOJ spokesperson said it is reviewing the opinion. DOJ and Boeing have 30 days to let O'Connor know how they wish to proceed.

In 2021, Boeing and DOJ reached a plea agreement that allowed the planemaker to avoid prosecution for a fraud charge related to the earlier crashes. That agreement included a probationary period during which it was to pay

millions of dollars in fines and improve various internal business and manufacturing practices, among other conditions.

But in May, following a high-profile incident in January where a door plug blew off an Alaska Airlines 737 MAX jet in midair, DOJ ruled that Boeing had not honored the agreement.

Boeing first accepted DOJ's terms in July, and O'Connor has been considering the petition since, a process that has included petitions from victims' families to reject the plea and documents submitted by Boeing whistleblowers related to the crashes.

O'Connor finally heard from families, DOJ and Boeing in early October to discuss the plea.

Following the hearing, O'Connor, a George W. Bush appointee, in October said before he could rule, he'd need information from DOJ and Boeing on how much of a factor diversity practices would be in selecting a third-party monitor as part of the plea deal, and how diversity policies are applied in Boeing's business practices.

The families have argued that Boeing long neglected its manufacturing and production lapses that could have contributed to the calamity, though investigators have concluded that faulty flight control software on the 737 MAX contributed to the crashes. In court documents related to the crashes, Boeing admitted that two of its employees had deceived the FAA about the flight control software implicated in those crashes.

Regardless of how DOJ proceeds, whether this year or under Trump, Boeing remains under a microscope from the Federal Aviation Administration, the National Transportation Safety Board, and lawmakers on Capitol Hill.

The Hill: Judge rejects Boeing plea deal in 737 Max crashes *by Taylor Giorno*
A federal judge on Thursday rejected a proposed plea deal that would have allowed Boeing to plead guilty and pay a fine for two fatal 737 Max crashes, thrusting the airline giant back into uncertain legal territory.

Judge Reed O'Connor of the Northern District of Texas specifically rejected provisions of the proposed agreement that would require the parties to consider race when hiring the independent monitor and said the agreement boxes out the court in the appointment and oversight of the monitor.

"These provisions are inappropriate and against the public interest," O'Connor wrote.

He gave Boeing and the Justice Department (DOJ) 30 days to present a new plan for how to proceed.

The decision is a setback for Boeing, which has weathered intense scrutiny since the door of a 737 Max 9 flew off during an Alaska Airlines flight in January.

Federal prosecutors charged Boeing in 2021 with conspiracy to defraud the U.S. and accused the company of misleading the Federal Aviation Administration (FAA) about issues with its Maneuvering Characteristics Augmentation System software, which played a role in both crashes.

The DOJ and Boeing finalized the agreement in July in which the corporation would plead guilty to fraud and pay a $250 million fine for misleading regulators ahead of two fatal 737 Max crashes in 2018 and 2019.

The families of some of the 346 victims have called for the rejection of the "sweetheart" deal, saying it would fail to hold Boeing accountable for the loss of their loved ones.

Neither DOJ nor Boeing immediately responded to requests for comment.

Law.com: Judge Rejects Boeing Plea Deal on DEI Grounds *by Greg Andrews*
In another setback to Boeing Chief Legal Officer Brett Gerry, a judge on Thursday rejected a plea deal that would have resolved a federal safety probe dating back to the crashes of two 737 Max jetliners that killed 346 people five years ago.

Reed O'Connor, a federal judge in Fort Worth, Texas, nominated by President George W. Bush, ruled that DEI policies at the federal government and at Boeing could make race a factor in the selection of the independent monitor to oversee Boeing's compliance with the please agreement.

"In a case of this magnitude, it is in the utmost interest of justice that the public is confident this monitor selection is done based solely on competency," the judge said in Thursday's decision. "The parties' DEI efforts only serve to undermine this confidence in the Government and Boeing's ethics and anti-fraud efforts."

It's not clear how the Justice Department and Crystal City, Virginia-based Boeing will proceed from here, and they did not immediately respond to a request for comment. The Justice Department could proceed with taking its case to trial, or the parties could seek to revise their deal in ways that might satisfy the judge.

Under the agreement, struck in July, Boeing said it would plead guilty to one felony count of conspiring to defraud the federal government, would pay a fine of at least $244 million, spend $455 million to bolster its compliance and safety programs operate, and operate under the oversight of a compliance monitor for three years.

The pact is the latest fallout from 737 Max crashes—Lion Air Flight 610 in 2018 and Ethiopian Airlines Flight 302 in 2019—that collectively killed 346 people.

The 737 Max, which debuted in 2017, was a reworked version of the original Boeing 737 that went into service in 1967. Investigators blamed the accidents on flight-control software Boeing added to the Max to compensate for the new aircraft having larger engines, mounted farther forward on the wing, than earlier versions of the 737.

The criminal charge stems from allegations that two Boeing employees withheld information from the Federal Aviation Administration about the new software.

In January 2021, eight months into Gerry's tenure as chief legal officer, Boeing appeared to extricate itself from the threat of criminal conviction by reaching a deferred prosecution agreement with the DOJ.

Under that 58-page deal, signed by Gerry and Boeing attorneys at Kirkland & Ellis and McGuireWoods, Boeing agreed to pay $2.5 billion and substantially upgrade its safety and compliance programs.

Under a DPA, the government brings a criminal case but agrees not to move forward. In exchange, the defendant agrees to abide by certain conditions. If the defendant complies for the term of the agreement, the government drops the case.

But in January of this year, just two days before the DPA was set to expire, a door of a nearly new Alaska Airlines 737 Max blew out during flight, raising new questions about Boeing's safety culture and competence.

Subsequent investigations by federal regulators and the U.S. House and Senate, along with whistleblower revelations, revealed numerous safety and compliance failures at Boeing, despite the company's pledge to clean up its act.

In May, the DOJ concluded that Boeing had violated the DPA, a setback for the company that sparked a new round of settlement negotiations, culminating in the deal disclosed Sunday.

Gerry, a Yale Law School graduate, is a Boeing veteran, having joined the company's legal department 16 years ago and later transitioning into a variety of business-side roles, including president of Boeing Japan.

Notably, Gerry joined Boeing from the DOJ, where his roles included serving as chief of staff for the attorney general and as deputy assistant attorney general in the National Security Division.

Before the Alaska Airlines incident, Boeing was crediting Gerry for helping refashion the company's culture. In a March 2023 regulatory filing, the board's compensation committee justified Gerry's $6.2 million in 2022 pay by saying he'd

"driven an improved compliance system and helped champion a culture of transparency."

Financial Times: Boeing's Max plea rejected over terms requiring diversity consideration *by Claire Bushey*
A US judge rejected Boeing's guilty plea stemming from twin crashes of the 737 Max, citing diversity, equity and inclusion considerations in selecting a monitor to oversee compliance with the agreement.

Judge Reed O'Connor in northern Texas said the inclusion of DEI considerations in selecting a corporate monitor for Boeing would "undermine confidence" the selection was based on competency. He also said the July deal's provisions "erroneously marginalise" the court in picking and overseeing the monitor.

Boeing did not immediately comment on the judge's decision. The Department of Justice said it was reviewing the opinion.

The ruling injects a culture war issue into one of the most significant corporate criminal prosecutions in US history. Conservatives have taken to attacking corporate and governmental policies promoting racial diversity, many of which were adopted four years ago in the wake of a police officer's murder of George Floyd, a black Minneapolis resident.

Boeing agreed in January 2021 to pay $2.5bn to defer prosecution on a single fraud charge related to the crashes. The charge stemmed from misleading federal aviation regulators about the safety of a flight control system on the Max. The system was later implicated in the crashes, five months apart, that killed a combined 346 people.

The justice department returned to the deferred prosecution this year after a door panel blew off a Max at 16,000 feet during a commercial flight. Prosecutors argued Boeing failed to live up to the terms of its earlier agreement.

The company plead guilty in July and agreed to the appointment of a corporate monitor, but victims' families challenged both Boeing and prosecutors over the monitor's role and selection.

O'Connor said that magnitude of the case against Boeing demands "that the public is confident this monitor selection is done based solely on competency. The parties' DEI efforts only serve to undermine this confidence".

O'Connor also said that, if Boeing has violated the 2021 deferred prosecution agreement, then "the government's attempt to ensure compliance has failed", and the court, rather than prosecutors, should have a greater role in selecting and overseeing Boeing's corporate monitor.

Boeing and prosecutors have 30 days to confer and update the court on how they plan to proceed.

Families of the crash victims had opposed the DEI considerations and asked O'Connor to block the deal worked out this summer, saying it was too lenient towards the company. Lawyers for the victim families hailed the ruling as a victory on Thursday.

Erin Applebaum, one of the lawyers representing the families, called the ruling "an excellent decision", and her clients "anticipate a significant renegotiation of the plea deal that incorporates terms truly commensurate with the gravity of Boeing's crimes".

Bloomberg: Boeing Plea Deal Over Fatal 737 Crashes Rejected by Judge *by Madlin Mekelburg*
A federal judge rejected Boeing Co.'s plea deal that sought to let the planemaker avoid criminal prosecution over to two fatal 737 Max crashes, in a surprise twist that threatens to prolong the company's recovery from past scandals.

US District Judge Reed O'Connor sided with family members of people killed during the crashes, who urged him to reject the agreement. O'Connor said provisions in the proposed settlement would improperly require race to be considered in the hiring of an independent monitor and that his role in making sure Boeing abides by the deal would be minimized.

"These provisions are inappropriate and against the public interest," O'Connor said in his ruling Thursday.

The judge asked both sides to confer and decide on the next steps, which could include revising the plea agreement to address the concerns raised.

A representative for Boeing didn't immediately comment on the ruling.

The decision marks a fresh setback for Boeing's push to get back on track after a year of crisis that began when a door-sized panel blew off an airborne 737 Max in early January. The near-catastrophe led to revelations of poor quality controls inside Boeing's factories, increased scrutiny from regulators and customers and a management shakeup that included the ouster of the company's chief executive officer.

The company's shares were down less than 1% as of 1:44 p.m. in New York. The stock has lost about 39% this year, the biggest decline in the Dow Jones Industrial Average.

Read More: Boeing's Guilty Plea Rejection More Headline Risk Than Monetary

Family members of crash victims have fought for years to get harsher penalties following the crashes of Lion Air Flight 610 in October 2018 and Ethiopian Airlines Flight 302 in March 2019. Both fatal accidents were linked to a flawed flight control system.

Earlier this year, Boeing had agreed with the US Justice Department to plead guilty to criminal conspiracy, pay a fine and install an independent corporate monitor. Plus, the company would have been required to spend at least $455 million to bolster its compliance and safety programs.

In rejecting the plea deal, O'Connor cited provisions in the agreement related to the selection of the independent monitor, including language directing prosecutors to consider diversity, equity and inclusion policies. He also took issue with requirements that the monitor answer to the government, rather than to the court.

Shortly after the door blowout on an Alaska Air 737 Max jet in January, the Justice Department scuttled the company's deferred prosecution agreement reached years earlier over the Lion Air and Ethiopian Airlines crashes. The department recommended criminal charges, citing Boeing's failure to live up to its promises. That led to the plea deal.

The judge said Boeing has been under the government's supervision for three years, during which the company was found to have breached the deferred prosecution agreement.

"It is fair to say the Government's attempt to ensure compliance has failed," O'Connor said. "At this point, the public interest requires the Court to step in. Marginalizing the Court in the selection and monitoring of the independent monitor as the plea agreement does undermines public confidence in Boeing's probation, fails to promote respect for the law, and is therefore not in the public interest."

Victims' Families

Erin Applebaum, a partner at Kreindler & Kreindler LLP who represents some relatives of the crash victims, said the families hope the judge's rejection of the plea deal puts an end to the "kid-glove treatment of Boeing" by the government.

"We look forward to a dramatic renegotiation of the plea deal and the inclusion of new terms that adequately reflect the magnitude of Boeing's crimes," she said in a statement.

The judge's rejection of the proposed deal comes months after he made an unusual request for both parties to explain language in the deal directing the DOJ to consider diversity and inclusion when selecting an independent monitor. The government defended it as a reflection of longstanding practice at the agency.

O'Connor said the response from the government only heightened his concerns that race would likely be a key factor for the government in selecting a monitor, going so far as to suggest that he is not convinced the government "will not

act in a non-discriminatory manner" in making such a decision.

He also questioned how Boeing might apply the diversity and inclusion requirement. Under the plea agreement, the company would have had the ability to reject one of six monitor candidates selected by the government. O'Connor said he was concerned the company could use the diversity clause to eliminate a candidate "in a discriminatory manner and with racial considerations."

Paul Cassell, one of the lawyers representing family members, said O'Connor's decision is an important victory in their efforts to hold the company accountable.

"Judge O'Connor has recognized that this was a cozy deal between the Government and Boeing that failed to focus on the overriding concerns — holding Boeing accountable for its deadly crime and ensuring that nothing like this happens again in the future," Cassell said in a statement. "This order should lead to a significant renegotiation of the plea deal to reflect the deaths Boeing caused and put in place proper remedies for the future."

The case is US v. Boeing, 21-cr-005 , US District Court, Northern District of Texas (Fort Worth).

International Business Times: Judge Rejects Boeing's Plea Deal Connected To Deadly 737 MAX Crashes *by Mark Moore*
A federal judge in Texas rejected a deal between Boeing and the U.S. government that would have allowed the aerospace company to plead guilty to a felony conspiracy charge and pay a fine for misleading the Federal Aviation Administrator about two fatal 737 Max jetliner crashes, according to a report.

In July Boeing agreed to plead to a conspiracy to defraud the U.S. charge and up to $487 million in fines—far less than the $24.8 billion the families of the crashes sought, CNN reported.

U.S. District Court Judge Reed O'Connor balked at the process to select an independent monitor that the deal required to oversee safety and quality improvement at Boeing.

He said that diversity, inclusion and equity policies at the Justice Department and at Boeing could play a factor in picking the monitor.

"The Court is not convinced in light of the foregoing that the government will not choose a monitor without race-based considerations and thus will not act in a nondiscriminatory manner," he wrote in the opinion.

"In a case of this magnitude, it is in the utmost interest of justice that the public is confident this monitor selection is done based solely on competency," he said.

He gave both sides 30 days to respond to him about how they would like to proceed.

Yahoo Finance: Judge cites DEI concerns in rejecting Boeing's plea deal with DOJ *by Alexis Keenan*
A federal judge rejected a criminal fraud plea deal reached between Boeing (BA) and the Justice Department, citing provisions in the agreement that included race as a condition in selecting a corporate monitor "inappropriate" and "against the public interest."

The decision is major setback for Boeing as it tries to put some legal troubles behind it while facing challenges on numerous fronts.

Its stock fell roughly 1% Thursday.

The decision comes as diversity, equity and inclusion (DEI) has picked up momentum as a political issue in 2024, with critics targeting what they describe as "woke" policies at big companies.

Some major corporations, including Walmart (WMT), have backed away from their DEI initiatives or policies following public and shareholder pressure to do so.

The plea deal would have insulated Boeing from facing a criminal trial on the government's allegation that the jet maker misled FAA officials before two 737 Max fatal crashes last decade killed 346 people.

But the US judge for the Northern District of Texas, Reed O'Connor, said Thursday in an order that the deal was insufficient in part because of its terms that govern the selection and conditions for a corporate monitor tasked with protecting against future fraud.

O'Connor, a former President George W. Bush appointee, has a track record of siding with conservative litigants against the government, according to reporting from Reuters.

The judge said the crash victims' families opposed part of the deal that required race as a consideration in the selection of the corporate monitor, as well as a section that omitted Boeing's compliance with the monitor's anti-fraud recommendations as a condition of its probation.

Boeing, the judge said, presented "shifting and contradictory explanations" of its policies. On one hand, it told the court that it would not compromise merit or talent to achieve DEI goals.

On the other, he said, Boeing's public website until recently touted racial race-based quotas and commitments to DEI-contingent executive compensation.

"Policies like Boeing's have been considered evidence of discrimination in Title VII cases," O'Connor wrote in his the order, and went on to express concern that Boeing would apply race considerations to its role in the monitor selection process.

O'Connor explained that the court was also not convinced that the government would steer clear of applying race-based, discriminatory considerations, in its role in selecting a monitor.

"In a case of this magnitude, it is in the utmost interest of justice that the public is confident this monitor selection is done based solely on competency," he said.

"The parties' DEI efforts only serve to undermine this confidence in the government and Boeing's ethics and anti-fraud efforts. Accordingly, the diversity-and-inclusion provision renders the plea agreement against the public interest."

The agreement also fell short, O'Conor said, because under its terms the DOJ, rather than the court and its probation department, is the ultimate arbiter of Boeing's compliance with its monitor.

"They argue, in essence, that the government has monitored Boeing since the case was filed and yet failed to ensure Boeing's compliance," O'Connor wrote in his order, explaining that the monitor should instead be selected by and report to the court.

BBC News: Boeing plea deal tied to fatal crashes rejected *by Natalie Sherman*
A Boeing plea deal intended to resolve a case related to two fatal crashes of its planes has been rejected by a US judge.

The plane maker had originally agreed with the US government in July to plead guilty to one count of criminal fraud, face independent monitoring, and pay a $243m (£191m) fine.

However, Judge Reed O'Connor struck down the agreement on Thursday, saying it gave the court too little power over the monitoring process.

Family members of the 346 people killed in the crashes welcomed the ruling, describing the plea deal as a "get-out-of-jail-free card for Boeing".

The Department of Justice said it was reviewing the decision. Boeing did not immediately comment.

In his decision, Judge O'Connor said the government's previous years of overseeing the firm had "failed". "At this point, the public interest requires the Court to step in," he wrote.

He said the proposed agreement did not require Boeing to comply with the monitor's recommendations and gave the company a say in selecting a candidate.

Those issues had also been raised by some families of those killed on the flights, who had criticised it as a "sweetheart" arrangement that did not properly hold the firm to account for the deaths.

Judge O'Connor's also focused on the deal's requirements that race be considered when hiring the monitor, which he said would undermine confidence in the pick.

He said he was concerned with the "shifting and contradictory explanations of how the plea agreement's diversity-and-inclusion provision will... operate".

"In a case of this magnitude, it is in the utmost interest of justice that the public is confident this monitor selection is done based solely on competency," he wrote.

"The parties' DEI efforts only serve to undermine this confidence in the government and Boeing's ethics and anti-fraud efforts."

Ike and Susan Riffel of California, who lost their two sons, Melvin and Bennett, said the judge had done "the right thing" in rejecting the proposed agreement.

"This deal didn't hold anyone accountable for the deaths of 346 people and did nothing to protect the flying public," they said in a statement supplied by their lawyer.

They said they hoped the ruling would pave the way for "real justice".

Boeing and the Department of Justice have 30 days to develop a new plan in response to the ruing.

The plane maker has been struggling to emerge from the shadow cast by two, near-identical crashes of its 737 Max planes in 2018 and 2019.

The aerospace giant was plunged back into crisis in January when a door panel on a new Boeing plane operated by Alaska Airlines blew off soon after take-off.

The incident reignited questions about what Boeing had done to improve its safety and quality record since the accidents, which were tied to the company's flight control system.

The door panel malfunction happened shortly before the end of a three-year period of increased monitoring and reporting.

Boeing had agreed to the monitoring as part of a 2021 plea deal to resolve a charge it had deceived regulators over the flight control system.

In May, the Department of Justice said Boeing had violated the terms of that agreement, opening up the possibility of prosecution.

Instead, the two sides struck another deal, angering families who had hoped to see the company brought to trial.

In the ruling, Judge O'Connor wrote it was "not clear what all" Boeing had done to breach the 2021 agreement.

Nonetheless, he wrote, "taken as true that Boeing breached the [deal], it is fair to say that the government's attempt to ensure compliance has failed".

Erin Appelbaum, partner at Kreindler & Kreindler, which represents some families of those killed on the 2019 Ethiopian Airlines Flight 302, called Thursday's ruling an "excellent decision and a significant victory" for the victims' families.

"We anticipate a significant renegotiation of the plea deal that incorporates terms truly commensurate with the gravity of Boeing's crimes," she said.

"It's time for the [Department of Justice] to end its lenient treatment of Boeing and demand real accountability."

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Print:

The Associated Press: US judge rejects Boeing's plea deal in a conspiracy case stemming from fatal plane crashes *by David Koenig*
Reuters: US judge rejects Boeing plea deal in fatal crashes *by Reuters*
The New York Times: Federal Judge Rejects Boeing's Guilty Plea Related to 737 Max Crashes *by Mark Walker*
The Wall Street Journal: Judge Rejects Boeing Guilty Plea Over DEI Requirement *by Dave Michaels and Andrew Tangel*
The Washington Post: Judge rejects Boeing 737 Max crash plea deal with Justice Department *by Lori Aratani*
CNN: Boeing plea deal related to Max crashes rejected by judge *by Chris Isidore*
NBC News: Court rejects Boeing plea deal tied to 737 Max crashes *by Leslie Josephs*
CBS News: Judge rejects Justice Dept plea deal with Boeing over fatal 737 Max plane crashes *by Robert Legare*
ABC News: Boeing 737 MAX crashes plea deal rejected by judge *by Clara McMichael*
NPR: Court rejects Boeing plea deal stemming from 737 Max crashes *by Joel Rose*
Axios: Federal judge rejects Boeing plea deal over 737 crashes *by Ivana Saric*
Newsweek: Families Speak Out After Judge Rejects Boeing's 'Sweetheart' Plea Deal *by Jesus Mesa*
Semafor: US judge rejects Boeing plea deal over deadly 737 MAX crashes *by Diego Mendoza*
Politico: Judge rejects Boeing's plea deal with DOJ, citing diversity issue *by Oriana Pawlyk*
The Hill: Judge rejects Boeing plea deal in 737 Max crashes *by Taylor Giorno*
Law.com: Judge Rejects Boeing Plea Deal on DEI Grounds *by Greg Andrews*
Financial Times: Boeing's Max plea rejected over terms requiring diversity consideration *by Claire Bushey*
Bloomberg: Boeing Plea Deal Over Fatal 737 Crashes Rejected by Judge *by Madlin Mekelburg*
International Business Times: Judge Rejects Boeing's Plea Deal Connected To Deadly 737 MAX Crashes *by Mark Moore*
Yahoo Finance: Judge cites DEI concerns in rejecting Boeing's plea deal with DOJ *by Alexis Keenan*
BBC News: Boeing plea deal tied to fatal crashes rejected *by Natalie Sherman*

TV:

CNN at 1 47 PM	**BRIANNA:** This just in: A federal judge has rejected a plea agreement between Boeing and the U.S. government. The company had agreed to plead guilty to deceiving the Federal Aviation Administration about equipment on their 737 Max planes. That same equipment was later tied to two crashes that killed hundreds of people.

	Under the deal, Boeing would have to pay up to $487 million in fines, just a fraction of the $24.8 billion that families of the victims wanted them to pay. An attorney for those families praised the news, saying, "Rejection of the plea deal is an important victory for the families in this case and, more broadly, for crime victims' interests in the criminal justice process." Boeing has not immediately responded to a request for comment.
Bloomberg at 12:32 PM 	**HOST:** maybe a new ceo. in the last few minutes, breaking news on boeing. shares moving south right now. a plea deal over its fatal 737 max crashes has been rejected by a judge. So once again the headline here is that the plea deal over its fatal 737 max crashes has been rejected by a judge. that stock is losing some ground, off by a third of one percent.
CNBC Fast Money Halftime Report at 12:33 PM 	**HOST:** Dom Chu has a news alert on Boeing. **DOM CHU:** We have our headlines that the U.S. court in the Northern District of Texas has rejected a plea agreement between Boeing in a case involving the 737. The court has ordered Boeing and the U.S. Justice Department to provide the court with an update on how they plan to proceed in this case no later than 30 days from now. Those particular headlines, with regard to the case between the DOJ and the settlement with Boeing, are driving the share price down slightly. You can see Boeing shares taking a slight leg lower. Keep a close eye on this—those are the headlines. I'll send things back over to you guys.

Radio:

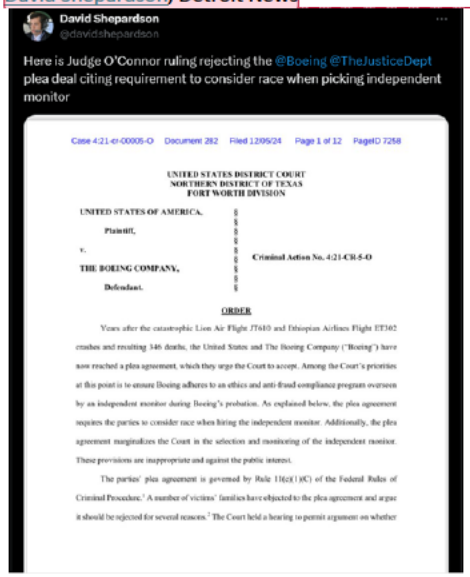
Bloomberg at 3:01 PM	**HOST:** A federal judge in Texas has rejected the latest plea deal, a plea deal that is, between Boeing and federal prosecutors over two 737 Max jet crash. US District Judge Reed O'Connor, siding with the family members of those killed in the two Boeing 737 Max crashes, they urged the judge to reject the agreement on the grounds that it failed to adequately hold Boeing

	accountable using an independent monitor the families what the US Departmentto prosecute Boeing Mark Pegram lost his son Sam, on the Ethiopian Airlines flight **MARK PEGRAM:** "sham of a deal that does not give accountability for 346 deaths."
Bloomberg at 12:35 PM	**DAN FLATLEY:** breaking news on Boeing, the plea deal over a fatal 7 37 Max jet crash reject acted by a judge also rejecting a plea deal over a provision at Boeing, will keep tabs on these stories as we make our way through our one of balance of power.

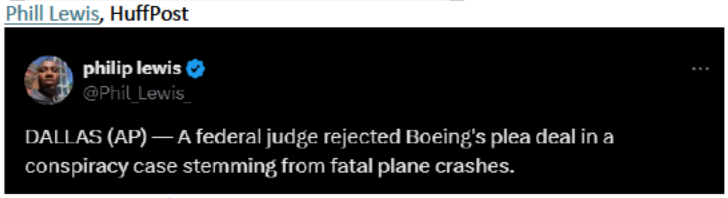
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Reporters:

David Shepardson, Detroit News



Phill Lewis, HuffPost

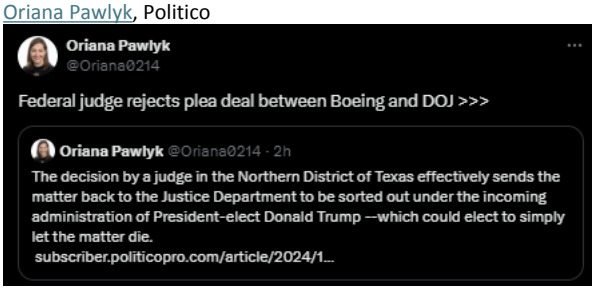


Steve Robinson, The Maine Wire

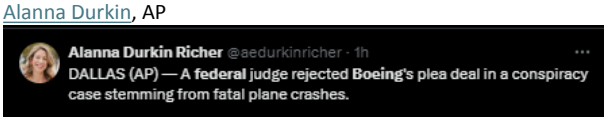
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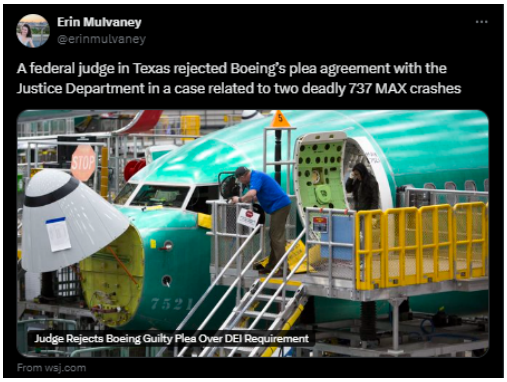
Oriana Pawlyk, Politico



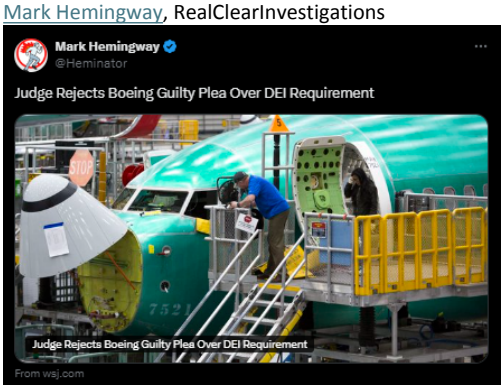
Alanna Durkin, AP



Erin Mulvaney, WSJ

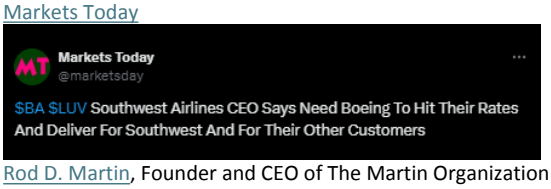


Mark Hemingway, RealClearInvestigations



Others:

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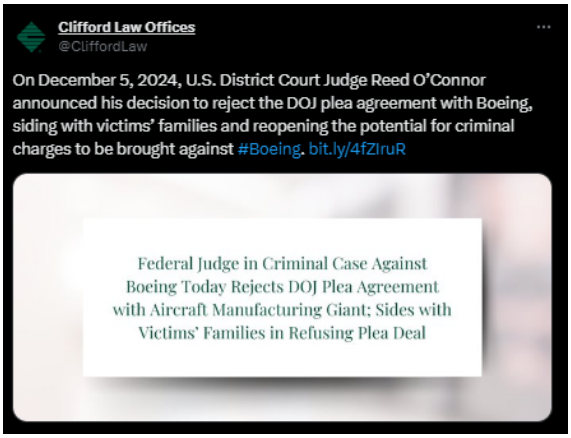
Rod D. Martin, Founder and CEO of The Martin Organization



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Full Articles:

The Associated Press: US judge rejects Boeing's plea deal in a conspiracy case stemming from fatal plane crashes *by David Koenig*

DALLAS (AP) — A federal judge on Thursday rejected a deal that would have let Boeing plead guilty to a felony conspiracy charge and pay a fine for misleading U.S. regulators about the 737 Max jetliner before two of the planes crashed, killing 346 people.

U.S. District Judge Reed O'Connor in Texas said that diversity, inclusion and equity or DEI policies in the government and at Boeing could result in race being a factor in picking an official to oversee Boeing's compliance with the agreement.

The ruling creates uncertainty around criminal prosecution of the aerospace giant in connection with the development of its bestselling airline plane.

The judge gave Boeing and the Justice Department 30 days to tell him how they plan to proceed. They could negotiate a new plea agreement, or prosecutors could move to put the company on trial.

The Justice Department said it was reviewing the ruling. Boeing did not comment immediately.

Paul Cassell, an attorney for families of passengers who died in the crashes, called the decision an important victory for the rights of crime victims.

"No longer can federal prosecutors and high-powered defense attorney craft backroom deals and just expect judges to approve them," Cassell said. "Judge O'Connor has recognized that this was a cozy deal between the government and Boeing that failed to focus on the overriding concerns -- holding Boeing accountable for its deadly crime and ensuring that nothing like this happens again in the future."

Many relatives of the passengers who died in the crashes, which took place off the coast of Indonesia and in Ethiopia less than five months apart in 2018 and 2019, have spent years pushing for a public trial, the prosecution of former company officials, and more severe financial punishment for Boeing.

The deal the judge rejected was reached in July and would have let Boeing plead guilty to defrauding regulators who approved pilot-training requirements for the 737 Max nearly a decade ago. Prosecutors said they did not have evidence to argue that Boeing's deception played a role in the crashes.

In his ruling, O'Connor focused on part of the agreement that called for an independent monitor to oversee Boeing's steps to prevent violation of anti-fraud laws during three years of probation.

O'Connor expressed particular concern that the agreement "requires the parties to consider race when hiring the independent monitor … 'in keeping with the (Justice) Department's commitment to diversity and inclusion.'"

O'Connor, a conservative appointed to the bench by President George W. Bush, questioned Justice Department and Boeing lawyers in October about the role of DEI in selection of the monitor. Department lawyers said selection would be open to all qualified candidates and based on merit.

The judge wrote in Thursday's ruling that he was "not convinced … the Government will not choose a monitor without race-based considerations."

"In a case of this magnitude, it is in the utmost interest of justice that the public is confident this monitor selection is done based solely on competency. The parties' DEI efforts only serve to undermine this confidence in the government and Boeing's ethics and anti-fraud efforts," he wrote.

O'Connor also objected that the plea deal called for the government to pick the monitor and for the appointee to report to the Justice Department, not the court. The judge also noted that Boeing would have been able to veto one of six candidates chosen by the government.

Todd Haugh, a business law and ethics expert at Indiana University, could not recall any previous corporate plea deals that were rejected over DEI. He said the larger issue was how the deal took sentencing power away from the court.

"That is a legitimate argument from which to reject a plea agreement, but this particular judge has really stood on this DEI issue," Haugh said. "It comes through loud and clear in the order."

The ruling leaves prosecutors in a bind because they can't simply ignore a government DEI policy that goes back to 2018, he said.

Prosecutors also must weigh the risks and uncertain outcome before pushing for a trial.

Boeing negotiated the plea deal only after the Justice Department determined this year that Boeing violated a 2021 agreement that had protected it against criminal prosecution on the same fraud-conspiracy charge.

Boeing lawyers have said that if the plea deal was rejected, the company would challenge the finding that it violated the earlier agreement. Without the finding, the government has no case.

The judge helped Boeing's position on Thursday, writing that it was not clear what the company did to violate the 2021 deal.

The Justice Department accused Boeing of defrauding Federal Aviation Administration regulators who approved pilot-training requirements for the 737 Max.

Acting on Boeing's incomplete disclosures, the FAA approved minimal, computer-based training instead of more intensive training in flight simulators. Simulator training would have increased the cost for airlines to operate the Max and might have pushed some to buy planes from rival Airbus instead.

When the Justice Department announced in 2021 that it had reached a settlement and would not prosecute Boeing for fraud, families of the victims were outraged. Judge O'Connor ruled last year that the Justice Department broke a victims-rights law by not telling relatives that it was negotiating with Boeing, but said he had no power to overturn the deal.

The 2021 deferred-prosecution agreement was due to expire in January, and it was widely expected that prosecutors would seek to permanently drop the matter. Just days before that, however, a door plug blew off a 737 Max during an Alaska Airlines flight over Oregon.

That incident renewed concerns about manufacturing quality and safety at Boeing, and put the company under intense scrutiny by regulators and lawmakers.

The case is just one of many challenges facing Boeing, which has lost more than $23 billion since 2019 and fallen behind Airbus in selling and delivering new planes.

The company went through a strike by factory workers that shut down most airplane production for seven weeks this fall, and announced that it will lay off 10% of its workers, about 17,000 people. Its shares have plunged about 40% in less than a year.

Reuters: US judge rejects Boeing plea deal in fatal crashes *by Reuters*
Dec 5 (Reuters) - A U.S. judge on Thursday rejected Boeing's agreement to plead guilty to fraud in the wake of two fatal 737 MAX crashes, faulting a diversity and inclusion provision in the deal.

Boeing did not immediately comment. The U.S. Department of Justice, which brokered the plea bargain with Boeing, is reviewing the opinion, a spokesperson said. Boeing and the DOJ's options could include appealing the judge's rejection of the plea deal or presenting a renegotiated agreement for court approval.

U.S. District Judge Reed O'Connor in Fort Worth, Texas, who has a record of ruling in favor of conservative causes, seized on a single sentence in the plea agreement mentioning the DOJ's diversity policy regarding the selection of an independent monitor to audit the planemaker's compliance practices. He had asked both Boeing and prosecutors to further brief him on it in October.

Boeing (BA.N), opens new tab and the DOJ now have 30 days to update the court on how they plan to proceed in the case, O'Connor ruled.

Judges weighing plea deals typically do not upend them over issues that the parties to the agreement have not disputed. In the rare cases that they do, it is usually because the judge wants to impose a different punishment than prosecutors have agreed to.

The plea bargain also "marginalizes" the judge in the selection and oversight of the independent monitor, and forbids imposing a probation condition requiring Boeing to comply with the monitor's anti-fraud recommendations, O'Connor said in his decision. He said the agreement was "not in the public interest."

Relatives of the victims of the two 737 MAX crashes, which occurred in 2018 and 2019 and killed 346 people, have called the plea agreement a "sweetheart" deal that failed to adequately hold Boeing accountable for the deaths of their loved ones.

The two plane crashes occurred in Indonesia and Ethiopia over a five-month period. The families had briefly referenced the DOJ diversity and inclusion policy in court filings opposing the plea agreement, but did not detail concerns about it.

"Judge O'Connor's emphatic rejection of the plea deal is an important victory" for the victims' families, said Paul Cassell, a lawyer representing them.

"Judge O'Connor has recognized that this was a cozy deal between" the government and Boeing "that failed to focus on the overriding concerns: holding Boeing accountable for its deadly crime and ensuring that nothing like this happens again in the future," Cassell said.

Cassell said he hoped the decision would result in the agreement being renegotiated to specifically address the passengers and crew who perished in the plane crashes.

An accepted plea deal would have branded Boeing a convicted felon for conspiring to defraud the U.S. Federal Aviation Administration about problematic software affecting the flight control systems in the planes that crashed.

Boeing had agreed to pay a fine of up to $487.2 million and spend $455 million to improve safety and compliance practices over three years of court-supervised probation as part of the deal.

Victims' relatives want Boeing and its executives charged with crimes holding them responsible for the deaths of their loved ones and any evidence of wrongdoing presented in a public trial. They have also argued Boeing should have to pay up to $24.78 billion in connection with the crashes.

In May, the DOJ found Boeing had violated the terms of a 2021 agreement that had shielded it from prosecution over the crashes. Prosecutors then decided to criminally charge Boeing and negotiate the current plea deal.

The decision followed a Jan. 5 in-flight blowout of a doorpanel on an Alaska Airlines (ALK.N), opens new tab jet that exposed ongoing safety and quality issues at Boeing.

The judge's objections largely centered on the government's diversity and inclusion policy covering the selection of the independent monitor to oversee Boeing for three years.

Such policies are commonly known as diversity, equity and inclusion, or DEI. DEI policies have become a flashpoint in America's culture wars, which refer to conflicts between liberal and conservative values.

Supporters contend the policies combat unconscious bias, inequity and discrimination in hiring while opponents argue they focus on characteristics such as race and gender at the expense of core job qualifications.

"The plea agreement requires the parties to consider race when hiring the independent monitor," O'Connor wrote in his decision. "In a case of this magnitude, it is in the utmost interest of justice that the public is confident this monitor selection is done based solely on competency."

O'Connor, appointed in 2007 by Republican then-President George W. Bush, gained prominence for rulings favoring conservative litigants, including finding Obamacare unconstitutional in a decision the U.S. Supreme Court later reversed.

He also previously invalidated a Biden administration attempt to deter schools from discriminating against students based on gender identity or sexual orientation.

Shirley Emehelu, former New Jersey executive assistant attorney general, said she expected the DOJ and the company would try to renegotiate the deal quickly, though it was unclear if that would be done before President-elect Donald Trump takes office on Jan. 20.

"The monitor that ultimately will be chosen will face the challenge of a remarkable level of scrutiny by the court over their undoubtedly highly complex work," she said.

The New York Times: Federal Judge Rejects Boeing's Guilty Plea Related to 737 Max Crashes *by Mark Walker*
In a rare move, a federal judge on Thursday rejected Boeing's proposed agreement with the Justice Department to plead guilty to conspiracy to defraud the federal government in connection with two fatal 737 Max crashes, according to court documents.

The plea agreement, reached in July, has been a flashpoint for controversy. It would have required Boeing to admit to deceiving the Federal Aviation Administration about critical safety issues tied to a flight control software implicated in both accidents. The crashes, a Lion Air flight in 2018 and an Ethiopian Airlines flight in 2019, killed a total of 346 people.

Judge Reed O'Connor, of the U.S. District Court for the Northern District of Texas, raised concerns on several levels about how the agreement had been handled, including a question about the independent monitor who was to determine if Boeing was abiding by the terms of the agreement. All parties have 30 days to decide how to proceed.

A spokeswoman for the Justice Department said the agency was reviewing the opinion. Boeing did not immediately respond to a request for comment.

Judge O'Connor's ruling is another setback for Boeing and its shareholders, adding one more layer of uncertainty to the company's future as it struggles to move past its legal issues stemming from the 737 Max crashes. The rejection of the settlement puts Boeing's hopes of closing this chapter on hold.

Among the issues raised by Judge O'Connor during an October hearing in Fort Worth, Texas, was that accepting the proposed deal would stop him from levying penalties beyond those already laid out in the deal.

In his ruling, the judge said the plea agreement's process for selecting the independent monitor, including prohibiting the judge from considering violations of the monitor's anti-fraud recommendations, improperly marginalizes the court's authority to oversee the case. The judge pointed out that the federal government has monitored Boeing for three years and that "it is fair to say the government's attempt to ensure compliance has failed."

Judge O'Connor also ruled that the plea agreement unfairly constrained the court by mandating diversity requirements in the selection of an independent monitor tasked with overseeing Boeing's future anti-fraud compliance.

"Marginalizing the court in the selection and monitoring of the independent monitor as the plea agreement does undermines public confidence in Boeing's probation, fails to promote respect for the law and is therefore not in the public interest," Judge O'Connor wrote.

The proposed agreement included a fine of up to $487 million, credits for prior payments that could significantly reduce the penalty, and a three-year probation period during which Boeing would invest $455 million in safety measures.

Lawyers for some victims' families have staunchly opposed the plea deal, arguing that it inadequately holds Boeing, and especially its executives, accountable for the tragedies.

Paul G. Cassell, an attorney representing the families, hailed the ruling as a victory.

"Judge O'Connor's emphatic rejection of the plea deal is an important victory for the families in this case and, more broadly, for crime victims' interests in the criminal justice process," Mr. Cassell said in a statement.

The ruling is not expected to have an immediate effect on Boeing, which is in the process of increasing production of the 737 Max, its most popular jet. The F.A.A. restricted output of the plane after a panel blew off a Max in flight in January. Manufacturing was also essentially frozen for two months this fall when thousands of production workers went on strike. They returned to work last month.

The panel incident resulted in no major injuries, but reignited concerns about the quality and safety of Boeing's planes. To address those concerns, Boeing has changed processes and procedures, added more training and inspections, begun the process of buying Spirit AeroSystems, a major supplier, and undergone a management shake-up.

Boeing's new chief executive, Kelly Ortberg, who assumed the role in August, has said that the company is need of "fundamental culture change." He has also announced a corporate restructuring that includes cutting 17,000 jobs, or about 10 percent of Boeing's work force.

The Wall Street Journal: Judge Rejects Boeing Guilty Plea Over DEI Requirement *by Dave Michaels and Andrew Tangel*
A federal judge in Texas rejected Boeing's plea deal with the Justice Department in a case related to two deadly 737 MAX crashes, criticizing the agreement's diversity aims.

U.S. District Judge Reed O'Connor said that the plea deal inappropriately tied the court's hands by imposing diversity considerations on the appointment of an outside monitor who would oversee Boeing's future legal compliance.

O'Connor wrote that prosecutors gave "shifting and contradictory explanations" of the role that race or diversity would play in the selection of a monitor. "In a case of this magnitude, it is in the utmost interest of justice that the public is confident this monitor selection is done based solely on competency," wrote O'Connor, an appointee of President George W. Bush.

The crash scene of an Ethiopian Airlines 737 MAX in 2019. Photo: Mulugeta Ayene/Associated Press
The decision casts fresh uncertainty into a yearslong legal odyssey that began after two 737 MAX crashes took 346 lives and was revived earlier this year when a fuselage panel blew out on the same type of jet, operated by Alaska Airlines, in January.

The judge's decision injects another variable into Boeing's current crisis. The company has recently considered asset sales as it seeks to refocus its business and raise cash. It endured a weekslong strike with its largest labor union that stalled factories, and its credit rating has flirted with junk status.

A Justice Department spokeswoman said prosecutors are reviewing the decision but declined to comment further. Boeing didn't immediately comment.

It isn't clear what immediately comes next. The judge ordered both sides to update him within 30 days on how they plan to proceed. Boeing shares declined 0.6% in midday trading, in line with U.S. stock indexes.

The Justice Department in May accused Boeing of violating its corporate probation over a fraud-conspiracy charge related to the 2018 and 2019 crashes. Prosecutors then asked the company to plead guilty to the charge, and Boeing in July agreed to do so.

Compliance monitors are sometimes part of a corporate criminal settlement, but they can be controversial. Companies typically oppose monitors, citing the cost of their services and the monitor's incentive to identify other problems that get reported to prosecutors.

In his ruling, O'Connor took issue with the Justice Department's citation of a 2021 Biden administration executive order, intended to promote DEI policies at federal agencies. The judge wrote that it appears "to encourage consideration of race in hiring," which he added would inject discrimination into the monitor selection process.

O'Connor highlighted how Boeing removed material related to its DEI goals from its website, after the judge sought more information from the company and Justice Department on the subject.

But the judge said that the company didn't appear to change its underlying corporate policy, which he said could lead Boeing to oppose a monitor in "a discriminatory manner and with racial considerations," O'Connor wrote.

A lawyer for the crash victims' families praised the judge's ruling. Photo: SARAH SILBIGER/REUTERS
O'Connor on Thursday also criticized how the Justice Department oversaw the probationary agreement, which was struck in the final days of the Trump administration. Boeing admitted at the time that two

former employees misled the FAA about a new flight-control feature on the 737 MAX that wasn't supposed to activate in normal flying conditions.

Boeing paid a $244 million criminal fine under the 2021 criminal settlement. It otherwise received leniency, however, avoiding a guilty plea at the time and instead landing a form of corporate probation.

The resolution required Boeing to report its compliance-program improvements to the Justice Department. The company had pledged to make certain improvements during three years of corporate probation, but after the Alaska blowout, prosecutors said Boeing hadn't lived up to its promises.

"It is fair to say the government's attempt to ensure compliance has failed," O'Connor wrote, explaining why he believes the monitor should report to the court and not to the Justice Department.

Paul Cassell, a lawyer for the crash victims' families, praised the judge's ruling. Families of the crash victims had asked O'Connor to reject the deal, saying it was too lenient on Boeing.

Cassell said the families would seek a stronger agreement that holds Boeing accountable and seeks appropriate monitorship to prevent future disasters. He called the plea agreement "a cozy backroom deal negotiated by the prosecutors and the high-powered defense team."

As part of a plea to one count of conspiracy to defraud the U.S., prosecutors had secured a commitment by the company to pay a second $244 million criminal fine and spend at least $455 million over the next three years to improve its compliance and safety programs. An independent monitor oversee Boeing's adherence to those improvements.

Without a plea agreement in place, federal prosecutors will either have to strike a new deal for the company's guilty plea, proceed to a trial or drop the case.

The Washington Post: Judge rejects Boeing 737 Max crash plea deal with Justice Department *by Lori Aratani*
A federal court judge Thursday rejected a plea agreement between the Justice Department and Boeing citing concerns that diversity is among the criteria that would be used to select the independent monitor charged with ensuring that Boeing complies with its agreement with the government.

"In a case of this magnitude, it is in the utmost interest of justice that the public is confident this monitor selection is done based solely on competency," wrote District Court Judge Reed O'Connor of the Northern District of Texas. "The parties' DEI efforts only serve to undermine this confidence in the Government and Boeing's ethics and antifraud efforts. Accordingly, the diversity-and-inclusion provision renders the plea agreement against the public interest."

O'Connor also wrote that the compliance monitor provisions also "erroneously marginalize" the court, which "undermines public confidence in Boeing's probation, fails to promote respect for the law, and is therefore not in the public interest." He noted that the government's efforts to ensure Boeing's compliance have failed.

O'Connor's decision means the fate of one of the longer-running legal battles over the aerospace giant's responsibility for two 737 Max plane crashes that killed 346 people is still unresolved.

Boeing had no immediate comment on the decision. A Justice Department official said attorneys are reviewing the opinion.

However, attorneys for the families hailed the judge's decision because they oppose the deal, saying it doesn't change Boeing culture or safety issues.

"Judge O'Connor's emphatic rejection of the plea deal is an important victory of the families in this case and, more broadly, crime victims' interests in the criminal justice process," Paul Cassell, a professor at the University of Utah College of Law and former federal judge who is representing the families in the case, said via email. "No longer can federal prosecutors and high-powered defense attorneys craft backroom deals and just expect judges to approve them. Victims can object — and when they have good reasons for striking a plea, judges will respond."

Added Erin Applebaum, a partner with Kreindler & Kreindler who represents 34 families who lost loved ones in the Ethiopian Airlines crash in a separate civil case: "We anticipate a significant renegotiation of the plea deal that incorporates terms truly commensurate with the gravity of Boeing's crimes. It's time for the DOJ to end its lenient treatment of Boeing and demand real accountability."

Under the terms of the agreement Boeing agreed to plead guilty to one count of fraud; pay $243.6 million in penalties; invest $455 million to strengthen its safety, quality and compliance programs; and submit to oversight by an independent monitor for three years.

Justice Department officials have pushed back against criticism of the deal, arguing in court that the agreement "ensures Boeing is held fully accountable for its criminal conduct and the financial benefits the Company reaped from that conduct (and for breaching a prior agreement)."

Prosecutors said that despite the passionate advocacy of the victims' families, there is no evidence that "could prove beyond a reasonable doubt that Boeing's fraud caused the deaths of their loved ones."

Initially, it appeared that Boeing would not face prosecution in connection with the two crashes after reaching a deferred prosecution agreement with the Justice Department in January 2021. However, a door panel blowout aboard a 737 Max jet in early January this year renewed scrutiny of the company's operations, and in May prosecutors announced that the company failed to live up to the terms of the deferred prosecution agreement and could be criminally prosecuted.

Family members had hoped the determination that Boeing was in breach of the original plea agreement would prompt the Justice Department to take a harder line against the company. In the end, though, Justice Department officials declined to go to trial, arguing the plea deal would guarantee the company would be held accountable.

O'Connor gave the two sides 30 days to provide an update on how they plan to proceed with the case.

CNN: Boeing plea deal related to Max crashes rejected by judge *by Chris Isidore*
A federal judge on Thursday rejected a plea agreement between Boeing and the US government after the company said it would plead guilty to deceiving the Federal Aviation Administration ahead of two fatal 737 Max crashes.

The rejection by US District Court Judge Reed O'Connor citied his problems with the selection process for a independent monitor required in the plea deal to oversee safety and quality improvement at Boeing.

Boeing agreed in July to plead guilty to one charge of conspiracy to defraud the United States. Under the plea agreement it would pay up to $487 million in fines — a fraction of the $24.8 billion that families of victims of the two crashes want the company to pay.

O'Connor had problems with the idea that the Justice Department, not the court, would have approval over the selection of the monitor and how Boeing had performed under an earlier settlement with the Justice Department in January 2021 over the same charges. That agreement had deferred prosecution until the safety issues were again raised by a door plug blowing off a 737 Max plane flown by Alaska Airlines in January.

"It is fair to say the government's attempt to ensure compliance has failed," O'Connor wrote in his opinion. "At this point, the public interest requires the court to step in. Marginalizing the court in the selection and monitoring of the independent monitor as the plea agreement does undermines public confidence in Boeing's probation."

One of O'Connor's problems with the plea agreement was that the Justice Department had said Boeing and Justice would have to consider race when hiring the independent monitor. But he also was upset that the court did not have a role in the selection process.

The families argued that the amount of the fine amounted to a sweetheart deal for Boeing, letting it off the hook for the two fatal crashes that were caused by a design flaw on the planes. They argue that Boeing's previous profits on every plane sold would allow for a much larger fine than the one the Justice Department argues it can justify under the plea agreement.

"Rejection of the plea deal is an important victory of the families in this case and, more broadly, crime victims' interests in the criminal justice process," said Paul Cassell, attorney for family members of crash victims, in a statement. "No longer can federal prosecutors and high-powered defense attorney craft backroom deals and just expect judges to approve them. Victims can object – and when they have good reasons for striking a plea, judges will response."

"This order should lead to a significant renegotiation of the plea deal to reflect the 346 deaths Boeing criminally caused and put in place proper monitoring of Boeing to ensure that it never again commits a crime like this in the future," he added.

Boeing did not immediately respond to a request for comment.

Under the July plea agreement Boeing also agreed to spend $455 million on its compliance and safety programs over the next three years, which the government said would represent a 75% increase over what the company was spending annually on those programs.

But the biggest change under the plea agreement was that Boeing agreed to operate under the supervision of a court-appointed monitor for a period of three years to make sure it improved the quality and safety of its aircraft.

The plea represented yet another black eye for the company after a series problems, ranging from embarrassing to tragic, for the company over the last six years. And it was a severe blow to the reputation of Boeing, a company once known for the quality and safety of its commercial aircraft.

According to the charges, the company defrauded the Federal Aviation Administration during the process of certifying the 737 Max to carry its first passengers.

The plane started service in 2017, but the two fatal crashes – in October 2018 and March of 2019 – led to a 20-month grounding of the jets, and investigations revealed a design flaw in its autopilot system. Boeing has admitted responsibility for the fatal crashes, and that its employees withheld information about the design flaw from the FAA during certification.

“Boeing profoundly regrets the accidents and the unspeakable losses that the crash victim representatives have suffered,” attorneys for the company said in an August filing in the case. “Boeing, for its part, has accepted responsibility for the Max crashes, publicly and in civil litigation, because the design of (a feature on the Max) contributed to those accidents.”

But Boeing argued in the filing that the misleading information it has admitted giving to the FAA during the certification process did not itself cause the crash.

And in its own filing in August, the Justice Department essentially agreed with that argument from Boeing.

“Yet in the end… (DOJ officials have) not found the one thing that underlies the families’ most passionate objections to the proposed resolution: evidence that could prove beyond a reasonable doubt that Boeing’s fraud caused the deaths of their loved ones,” said the Justice Department’s filing in support of the plea agreement.

NBC News: Court rejects Boeing plea deal tied to 737 Max crashes *by Leslie Josephs*
A federal judge rejected Boeing’s plea deal tied to a criminal fraud charge stemming from fatal crashes of its 737 Max aircraft.

U.S. District Judge Reed O’Connor of the U.S. District Court for the Northern District of Texas expressed concern in his decision on Thursday that a government-appointed monitor, a condition of the plea deal, would include diversity, equity and inclusion policiies.

He wrote that “the Court is not convinced in light of the foregoing that the Government will not choose a monitor without race-based considerations and thus will not act in a nondiscriminatory manner. In a case of this magnitude, it is in the utmost interest of justice that the public is confident this monitor selection is done based solely on competency.”

In October, O’Connor ordered Boeing and the Justice Department to provide details on diversity, equity and inclusion policies when the monitor would be selected.

The court gave Boeing and the Justice Department 30 days to decide how to proceed, according to a court document filed Thursday.

In July, Boeing agreed to plead guilty to a criminal charge of conspiring to defraud the U.S. government by misleading regulators about its inclusion of a flight-control system on the Max that was later implicated in the two crashes — a Lion Air flight in October 2018 and an Ethiopian Airlines flight in March 2019. All 346 people on the flights were killed.

Boeing and the Justice Department didn't immediately comment.

Victims' family members had taken issue with a government-appointed monitor as a condition of the plea deal and sought to provide more input. They called it a "sweetheart deal."

Erin Applebaum, an attorney representing one of the victim's family members applauded the deal. "We anticipate a significant renegotiation of the plea deal that incorporates terms truly commensurate with the gravity of Boeing's crimes," Applebaum said in a statement. "It's time for the DOJ to end its lenient treatment of Boeing and demand real accountability."

The deal was set to allow Boeing to avoid a trial just as it was trying to get the company back on solid footing after a door burst off of a flight in midair at the start of the year, reigniting a safety crisis at the manufacturer.

The new plea deal arose after the Justice Department said in May that Boeing violated a previous plea agreement, which was set to expire days after the door plug blew off the 737 Max 9 on Jan. 5. O'Connor said in his decision on Thursday that it "is not clear what all Boeing has done to breach the Deferred Prosecution Agreement."

Under the new plea agreement, Boeing was set to face a fine of up to $487.2 million. However, the Justice Department recommended that the court credit Boeing with half that amount it paid under a previous agreement, resulting in a fine of $243.6 million.

CBS News: Judge rejects Justice Dept plea deal with Boeing over fatal 737 Max plane crashes *by Robert Legare*
A federal judge in Texas rejected a proposed plea agreement between the Justice Department and Boeing that would have settled the U.S. government's claims against the company, after crashes of two 737 Max jetliners that killed 346 people, according to a court order issued Thursday.

In his ruling, Judge Reed O'Connor took issue with both a lack of judicial oversight and certain diversity requirements included in the deal's independent monitoring process and ordered the parties to provide the court with a plan for possible ways forward early next month.

The federal government's proposed agreement with airplane manufacturing giant over the deadly crashes included various provisions, including an admission of guilt to one count of conspiracy to defraud the United States and a $243.6 million fine — much less than the billions the families of the victims had requested. The deal would also have required Boeing to spend $455 million on safety programs and to work with an independent monitor who would oversee the company's progress.

Investigators alleged in court records that leading up to the crashes, Boeing deceived federal officials who regulated the planes. In 2021, Boeing and the Justice Department entered into a deferred prosecution agreement, which meant the criminal charge would have been dropped if Boeing had complied with the terms of the deal. But earlier this year, federal prosecutors informed the court that

Boeing had not followed through on all of the requirements and intended to move forward with the case.

By July, after weeks of negotiations, Boeing and the Justice Department settled on the proposed plea agreement, prompting an outcry from families of those who died in the crashes. At the time, CBS News reported the deal only covered wrongdoing by Boeing tied to the crashes and did not give the company immunity for other incidents, including a door panel that blew off a Max jetliner during an Alaska Airlines flight in January. According to a Justice Department official, the proposed agreement also did not cover any current or former Boeing officials, only the corporation.

Attorneys for some of the victims' families opposed the deal, arguing the "rotten" agreement with the government did not justly remedy the families' claims against Boeing. In court filings, they accused Boeing of more criminality and urged stricter penalties, harsher monitoring and recognition of the lives lost.

In rejecting the plea agreement, the judge took aim at diversity, equity and inclusion considerations that the parties said they would take when hiring an independent monitor. He wrote that he was "concerned with the Government's shifting and contradictory explanations of how the plea agreement's diversity-and-inclusion provision will practically operate in this case."

Judge O'Connor had previously raised this issue and in responsive court filings, the Justice Department defended the language, arguing it predated the Boeing agreement. "This new language reflected not a change in policy but rather a principle that has always governed the process: that selection of a monitor must be based solely on merit, from the broadest possible pool of qualified candidates," they said.

O'Connor ruled Thursday that the language was inappropriate: "In a case of this magnitude, it is in the utmost interest of justice that the public is confident this monitor selection is done based solely on competency. The parties' DEI efforts only serve to undermine this confidence in the Government and Boeing's ethics and anti-fraud efforts."

The judge also wrote that the Justice Department's previous efforts to oversee Boeing's conduct "failed" and said the independent monitor provision in the proposed deal did not go far enough to include the court in the process.

"At this point, the public interest requires the Court to step in. Marginalizing the Court in the selection and monitoring of the independent monitor as the plea agreement does undermines public confidence in Boeing's probation, fails to promote respect for the law, and is therefore not in the public interest," O'Connor wrote, "Accordingly, the Court cannot accept the plea agreement."

The Justice Department said it's reviewing the decision. Boeing did not immediately respond to requests for comment.

In a statement, Paul Cassell, an attorney for some of the victims' families, told CBS News, "Judge O'Connor has recognized that this was a cozy deal between the Government and Boeing that failed to focus on the overriding concerns – holding Boeing accountable for its deadly crime and ensuring that nothing like this happens again in the future."

ABC News: Boeing 737 MAX crashes plea deal rejected by judge *by Clara McMichael*

A Texas judge has rejected the plea deal between Boeing and the Department of Justice in which the aircraft manufacturing giant agreed to plead guilty to conspiracy to defraud the United States and pay a fine of at least $243 million after the two 737 MAX crashes in 2018 and 2019.

Over 340 people died in the two crashes, the first of which occurred in Indonesia in October 2018 and the second five months later in Ethiopia.

U.S. District Judge Reed O'Connor rejected the plea deal due to requirements that the government's diversity, equity and inclusion (DEI) policies be considered when the government selected an independent compliance monitor for Boeing. At a hearing in October, the judge asked how the government and Boeing's DEI policies would affect choosing the monitor.

"In a case of this magnitude, it is in the utmost interest of justice that the public is confident this monitor selection is done based solely on competency," O'Connor wrote in his ruling. "The parties' DEI efforts only serve to undermine this confidence in the Government and Boeing's ethics and anti-fraud efforts. Accordingly, the diversity-and-inclusion provision renders the plea agreement against the public interest."

"It is fair to say that the Government's attempt to ensure compliance has failed," O'Connor wrote. "At this point, the public interest requires the Court to step in. Marginalizing the Court in the selection and monitoring of the independent monitor as the plea agreement does undermines public confidence in Boeing's probation, fails to promote respect for the law, and is therefore not in the public interest."

Boeing did not immediately respond to an ABC News request for comment on the ruling.

Families of the crash victims considered the judge's decision a victory.

"Judge O'Connor has recognized that this was a cozy deal between the Government and Boeing that failed to focus on the overriding concerns – holding Boeing accountable for its deadly crime and ensuring that nothing like this happens again in the future," said Paul Cassell, a lawyer representing families of the MAX crash victims, told ABC News. "This order should lead to a significant renegotiation of the plea deal to reflect the 346 deaths Boeing criminally caused and put in place proper monitoring of Boeing to ensure that it never again commits a crime like this in the future."

"This is an excellent decision by Judge O'Connor and a significant victory for the victims' families" said Erin Applebaum, a lawyer at the firm Kreindler & Kreindler, which represents 34 families of people who died on the Ethiopian Airlines flight. "We anticipate a significant renegotiation of the plea deal that incorporates terms truly commensurate with the gravity of Boeing's crimes. It's time for the DOJ to end its lenient treatment of Boeing and demand real accountability."

According to court documents, Boeing and the DOJ must update the court within 30 days regarding how they plan to proceed.

NPR: Court rejects Boeing plea deal stemming from 737 Max crashes *by Joel Rose*
A federal judge in Texas has rejected a proposed plea deal between Boeing and the U.S. Justice Department, saying the court should play a bigger role in selecting an independent monitor to oversee the company.

The decision is a victory for family members of people killed in the deadly crashes of two Boeing 737 Max jets, who opposed an agreement they argued was too lenient.

Judge Reed O'Connor in Fort Worth, Texas objected to the framework that Boeing and the Justice Department crafted to select an independent monitor.

"Marginalizing the Court in the selection and monitoring of the independent monitor as the plea agreement does undermines public confidence in Boeing's probation," O'Connor wrote in an order published Thursday.

The judge also objected to a requirement that the monitor selection process adhere to the DOJ's diversity and inclusion policy.

"It is in the utmost interest of justice that the public is confident this monitor selection is done based solely on competency," O'Connor wrote in his ruling. "The parties' DEI efforts only serve to undermine this confidence in the Government and Boeing's ethics and anti-fraud efforts."

The agreement between Boeing and the DOJ stems from the crashes of two 737 Max jets in 2018 and 2019 that killed 346 people.

Under the deal, Boeing agreed to plead guilty to a single count of conspiracy to defraud regulators about the safety of those planes, and to pay a fine of more than $240 million. The aerospace giant would also be put on probation, and subject to an independent compliance monitor — selected by the Justice Department, with input from Boeing — for three years.

Boeing and the DOJ reached a similar agreement in 2021. But after a door plug panel blew out of a Boeing 737 Max jet in midair in January, federal prosecutors concluded that Boeing had failed to hold up its end of the deal.

In his order, Judge O'Connor gave Boeing and the DOJ 30 days to confer and update the court on their next steps.

Axios: Federal judge rejects Boeing plea deal over 737 crashes *by Ivana Saric*
A federal judge on Thursday rejected Boeing's plea deal over a criminal fraud charge stemming from two fatal 737 crashes in 2018 and 2019.

Why it matters: The plane crashes in Indonesia and Ethiopia killed a total of 346 people and ignited scrutiny about quality control and safety at Boeing — concerns that have only become starker in recent years.

- If the deal had gone through, it would have tarnished one of the world's biggest aerospace companies with a felony conviction.
- Now, Boeing and the Justice Department have 30 days to provide the court with a new plan for how they wish to proceed, Judge Reed O'Connor wrote in a court filing Thursday.

Catch up quick: Boeing agreed in July to plead guilty to the charge of conspiring to defraud the federal government and to pay $487.2 million in penalties.

- It also agreed to invest at least $455 million over three years to bolstering its compliance and safety programs and to allow a government-appointed independent monitor to track compliance with safety measures.
- However, the victims' families criticized the deal at the time, calling it a "sweetheart deal" that gave undue concessions to Boeing.

State of play: In the court filing Thursday, O'Conner noted that many victims' families opposed the government-appointed monitor and believed the monitor should be selected by, and report to, the court.

- O'Conner also took issue with the fact that the monitor's selection would take DEI provisions into account.
- "The Court is not convinced ... that the Government will not choose a monitor without race-based considerations and thus will not act in a nondiscriminatory manner," O'Conner wrote.
- In October, O'Conner ordered Boeing and the Justice Department to provide details about the diversity, equity and inclusion policies on the selection of the monitor, Reuters reported.

What they're saying: "This is an excellent decision by Judge O'Connor and an important victory for the victims' families," attorney Erin Applebaum, which represents some of the victims' families, said in a statement Thursday.

- "We anticipate a significant renegotiation of the plea deal that incorporates terms truly commensurate with the gravity of Boeing's crimes," Applebaum added.
- "It's time for the DOJ to end its lenient treatment of Boeing and demand real accountability."
- Boeing and the Justice Department did not immediately respond to Axios' requests for comment.

Newsweek: Families Speak Out After Judge Rejects Boeing's 'Sweetheart' Plea Deal *by Jesus Mesa*
Afederal judge has rejected Boeing's controversial plea deal with the Department of Justice (DOJ), describing the agreement as inadequate and a betrayal of the families of the 346 people killed in two Boeing 737 Max crashes.

The ruling by U.S. District Judge Reed O'Connor in Texas casts uncertainty over Boeing's criminal case, prompting the company and the DOJ to consider renegotiating the plea agreement.

"I am pleased to see the judge reject this inappropriate and inadequate deal that failed to serve justice or improve public safety. I hope the Department of Justice takes this opportunity to hold Boeing accountable for the deaths of 346 people," Javier de Luis of Massachusetts, who lost his sister Graziella in one of the crashes, told Newsweek.

"The judge did the right thing by throwing out this terrible plea deal. It was nothing more than a 'get out of jail free' card for Boeing," Ike and Susan Riffel of California, who lost their two sons, Melvin and Bennett, told Newsweek.

The DOJ and Boeing now have 30 days to determine the next steps, which could include renegotiating the plea agreement or preparing for trial. The ruling highlights a growing push for stronger corporate accountability in cases involving criminal negligence that results in loss of life.

Erin Applebaum, an attorney representing some of the families, called O'Connor's decision an important victory. She told Newsweek she expects significant developments in the coming months.

"We anticipate a significant renegotiation of the plea deal that incorporates terms truly commensurate with the gravity of Boeing's crimes. It's time for the DOJ to end its lenient treatment of Boeing and demand real accountability," Applebaum said.

Paul Cassell, another attorney for the victims' families and a professor at the University of Utah's S.J. Quinney College of Law, echoed Applebaum's remarks.

"Judge O'Connor's emphatic rejection of the plea deal is an important victory for the families and, more broadly, for crime victims' interests in the criminal justice process," Cassell told Newsweek on Thursday.

In his ruling, O'Connor expressed skepticism about provisions in the plea agreement, particularly the appointment of a compliance monitor. He raised concerns about the selection process for the monitor, emphasizing the importance of public confidence in the impartiality of such oversight.

"The families would like to have the independent compliance monitor selected by the court. The monitor should also report to the court in order to guarantee Boeing's compliance," Paul Njoroge of Canada, who lost his wife and three young children in the crash, told Newsweek.

The rejected plea deal, criticized as a "sweetheart deal" by one of the victims' lawyers, would have allowed Boeing to plead guilty to a single felony count of conspiracy to commit fraud. This charge stemmed from allegations that Boeing misled regulators about pilot training requirements for the 737 Max nearly a decade ago.

In exchange, the company would avoid a trial, pay a $243.6 million fine, undergo three years of probation with a "handpicked" monitor and meet with the victims' families.

Applebaum said the families "welcomed the decision" after they had "vigorously opposed" the deal, which they argued "falsely depicts itself as a punishment." Since July, attorneys for the families have been lobbying for the deal's rejection.

The crashes of Lion Air Flight 610 in 2018 and Ethiopian Airlines Flight 302 in 2019 were both linked to a flawed flight control system called the Maneuvering Characteristics Augmentation System. Investigations revealed that Boeing had downplayed the significance of MCAS to regulators to avoid costly pilot training requirements—a move critics argue prioritized profits over safety.

Relatives of the passengers, who perished in crashes off the coast of Indonesia and in Ethiopia less than five months apart, have spent years demanding a public trial, the prosecution of former company officials and harsher financial penalties for Boeing.

Victims' families remain steadfast in their demands for justice. "This decision is a step toward justice," Applebaum said. "We will continue fighting until there is accountability that matches the gravity of these tragedies."

Cassell said: "No longer can federal prosecutors and high-powered defense attorneys craft backroom deals and expect judges to rubber-stamp them. Victims can object—and when they present compelling reasons, judges will respond."

Semafor: US judge rejects Boeing plea deal over deadly 737 MAX crashes *by Diego Mendoza*
A US judge rejected federal prosecutors' deal with Boeing to plead guilty in a criminal case involving the fatal crashes of two of the aerospace giant's 737 MAX planes.

The judge took issue with provisions in the deal for choosing an independent monitor that would require considering race and diversity during the appointment process.

The decision is a victory for families of victims killed in the 2018 and 2019 crashes, who had called the plea bargain a "sweetheart deal" and urged the judge to reject it.

Under the agreement, Boeing would have pled guilty to defrauding investors by misguiding them about a software feature that caused the two crashes and pay more than $243 million in fines — less than 0.5% of the company's 2023 revenue — avoiding a trial.

Boeing and prosecutors now have 30 days to update the court on how they wish to proceed.

Politico: Judge rejects Boeing's plea deal with DOJ, citing diversity issue *by Oriana Pawlyk*
A federal judge on Thursday rejected a plea deal that had been inked between Boeing and the Justice Department earlier this year alleging the planemaker had committed fraud related to 737 MAX crashes overseas more than five years ago.

The decision by Judge Reed O'Connor in the Northern District of Texas effectively sends the matter back to the Justice Department to be sorted out, including potentially by the incoming administration of President-elect Donald Trump, which could elect to simply let the matter die.

In rejecting the deal, which was reached after DOJ alleged that the airplane manufacturer had violated a previous plea agreement related to two 737 MAX crashes in Indonesia and Ethiopia in 2018 and 2019 that killed 346 people, O'Connor said his decision was rooted in concerns about diversity policies at both Boeing and DOJ that may have influenced the government's decision in selecting an independent monitor to oversee Boeing.

"The Court is concerned with the Government's shifting and contradictory explanations of how the plea agreement's diversity-and-inclusion provision will practically operate in this case," O'Connor said in the 12-page decision. Overall, O'Connor said the general monitor provisions are against the public interest; he also noted that victims' families also objected to the oversight process (some families of crash victims have said they want to have final say over the independent monitor).

O'Connor's concern appears to have stemmed from a previous request from the victims' families asking that they have final say on who should monitor Boeing, "in keeping with the Department's commitment to diversity and inclusion."

In October, O'Connor determined it was important to know how diversity policies, if a factor, still ensure "safety and compliance efforts as a result of Boeing's fraudulent misconduct" and how the company's internal focus on diversity and equity "impacts its compliance and ethics obligations."

In its response, DOJ defended its policies, repeatedly stressing that regardless of the broad pool of candidates considered for the role, it "must select and does select the most qualified candidate irrespective of race or gender, or any other non-merit factor."

In its own filing, Boeing at the time said the aerospace company "does not compromise on merit or talent in pursuit of those aspirations and has a merit-based performance system with procedures aimed at encouraging an equality of opportunity, not of outcomes," adding that it strictly observes the law prohibiting discrimination and "does not employ racial quotas in hiring or promotion decisions."

Boeing did not immediately respond to requests for comment. A DOJ spokesperson said it is reviewing the opinion. DOJ and Boeing have 30 days to let O'Connor know how they wish to proceed.

In 2021, Boeing and DOJ reached a plea agreement that allowed the planemaker to avoid prosecution for a fraud charge related to the earlier crashes. That agreement included a probationary period during which it was to pay millions of dollars in fines and improve various internal business and manufacturing practices, among other conditions.

But in May, following a high-profile incident in January where a door plug blew off an Alaska Airlines 737 MAX jet in midair, DOJ ruled that Boeing had not honored the agreement.

Boeing first accepted DOJ's terms in July, and O'Connor has been considering the petition since, a process that has included petitions from victims' families to reject the plea and documents submitted by Boeing whistleblowers related to the crashes.

O'Connor finally heard from families, DOJ and Boeing in early October to discuss the plea.

Following the hearing, O'Connor, a George W. Bush appointee, in October said before he could rule, he'd need information from DOJ and Boeing on how much of a factor diversity practices would be in selecting a third-party monitor as part of the plea deal, and how diversity policies are applied in Boeing's business practices.

The families have argued that Boeing long neglected its manufacturing and production lapses that could have contributed to the calamity, though investigators have concluded that faulty flight control software on the 737 MAX contributed to the crashes. In court documents related to the crashes, Boeing admitted that two of its employees had deceived the FAA about the flight control software implicated in those crashes.

Regardless of how DOJ proceeds, whether this year or under Trump, Boeing remains under a microscope from the Federal Aviation Administration, the National Transportation Safety Board, and lawmakers on Capitol Hill.

The Hill: Judge rejects Boeing plea deal in 737 Max crashes *by Taylor Giorno*
A federal judge on Thursday rejected a proposed plea deal that would have allowed Boeing to plead guilty and pay a fine for two fatal 737 Max crashes, thrusting the airline giant back into uncertain legal territory.

Judge Reed O'Connor of the Northern District of Texas specifically rejected provisions of the proposed agreement that would require the parties to consider race when hiring the independent monitor and said the agreement boxes out the court in the appointment and oversight of the monitor.

"These provisions are inappropriate and against the public interest," O'Connor wrote.

He gave Boeing and the Justice Department (DOJ) 30 days to present a new plan for how to proceed.

The decision is a setback for Boeing, which has weathered intense scrutiny since the door of a 737 Max 9 flew off during an Alaska Airlines flight in January.

Federal prosecutors charged Boeing in 2021 with conspiracy to defraud the U.S. and accused the company of misleading the Federal Aviation Administration (FAA) about issues with its Maneuvering Characteristics Augmentation System software, which played a role in both crashes.

The DOJ and Boeing finalized the agreement in July in which the corporation would plead guilty to fraud and pay a $250 million fine for misleading regulators ahead of two fatal 737 Max crashes in 2018 and 2019.

The families of some of the 346 victims have called for the rejection of the "sweetheart" deal, saying it would fail to hold Boeing accountable for the loss of their loved ones.

Neither DOJ nor Boeing immediately responded to requests for comment.

Law.com: Judge Rejects Boeing Plea Deal on DEI Grounds *by Greg Andrews*
In another setback to Boeing Chief Legal Officer Brett Gerry, a judge on Thursday rejected a plea deal that would have resolved a federal safety probe dating back to the crashes of two 737 Max jetliners that killed 346 people five years ago.

Reed O'Connor, a federal judge in Fort Worth, Texas, nominated by President George W. Bush, ruled that DEI policies at the federal government and at Boeing could make race a factor in the selection of the independent monitor to oversee Boeing's compliance with the please agreement.

"In a case of this magnitude, it is in the utmost interest of justice that the public is confident this monitor selection is done based solely on competency," the judge said in Thursday's decision. "The parties' DEI efforts only serve to undermine this confidence in the Government and Boeing's ethics and anti-fraud efforts."

It's not clear how the Justice Department and Crystal City, Virginia-based Boeing will proceed from here, and they did not immediately respond to a request for comment. The Justice Department could proceed with taking its case to trial, or the parties could seek to revise their deal in ways that might satisfy the judge.

Under the agreement, struck in July, Boeing said it would plead guilty to one felony count of conspiring to defraud the federal government, would pay a fine of at least $244 million, spend $455 million to bolster its compliance and safety programs operate, and operate under the oversight of a compliance monitor for three years.

The pact is the latest fallout from 737 Max crashes—Lion Air Flight 610 in 2018 and Ethiopian Airlines Flight 302 in 2019—that collectively killed 346 people.

The 737 Max, which debuted in 2017, was a reworked version of the original Boeing 737 that went into service in 1967. Investigators blamed the accidents on flight-control software Boeing added to the Max to compensate for the new aircraft having larger engines, mounted farther forward on the wing, than earlier versions of the 737.

The criminal charge stems from allegations that two Boeing employees withheld information from the Federal Aviation Administration about the new software.

In January 2021, eight months into Gerry's tenure as chief legal officer, Boeing appeared to extricate itself from the threat of criminal conviction by reaching a deferred prosecution agreement with the DOJ.

Under that 58-page deal, signed by Gerry and Boeing attorneys at Kirkland & Ellis and McGuireWoods, Boeing agreed to pay $2.5 billion and substantially upgrade its safety and compliance programs.

Under a DPA, the government brings a criminal case but agrees not to move forward. In exchange, the defendant agrees to abide by certain conditions. If the defendant complies for the term of the agreement, the government drops the case.

But in January of this year, just two days before the DPA was set to expire, a door of a nearly new Alaska Airlines 737 Max blew out during flight, raising new questions about Boeing's safety culture and competence.

Subsequent investigations by federal regulators and the U.S. House and Senate, along with whistleblower revelations, revealed numerous safety and compliance failures at Boeing, despite the company's pledge to clean up its act.

In May, the DOJ concluded that Boeing had violated the DPA, a setback for the company that sparked a new round of settlement negotiations, culminating in the deal disclosed Sunday.

Gerry, a Yale Law School graduate, is a Boeing veteran, having joined the company's legal department 16 years ago and later transitioning into a variety of business-side roles, including president of Boeing Japan.

Notably, Gerry joined Boeing from the DOJ, where his roles included serving as chief of staff for the attorney general and as deputy assistant attorney general in the National Security Division.

Before the Alaska Airlines incident, Boeing was crediting Gerry for helping refashion the company's culture. In a March 2023 regulatory filing, the board's compensation committee justified Gerry's $6.2 million in 2022 pay by saying he'd "driven an improved compliance system and helped champion a culture of transparency."

Financial Times: Boeing’s Max plea rejected over terms requiring diversity consideration *by Claire Bushey*
A US judge rejected Boeing’s guilty plea stemming from twin crashes of the 737 Max, citing diversity, equity and inclusion considerations in selecting a monitor to oversee compliance with the agreement.

Judge Reed O'Connor in northern Texas said the inclusion of DEI considerations in selecting a corporate monitor for Boeing would "undermine confidence" the selection was based on competency. He also said the July deal's provisions "erroneously marginalise" the court in picking and overseeing the monitor.

Boeing did not immediately comment on the judge's decision. The Department of Justice said it was reviewing the opinion.

The ruling injects a culture war issue into one of the most significant corporate criminal prosecutions in US history. Conservatives have taken to attacking corporate and governmental policies promoting racial diversity, many of which were adopted four years ago in the wake of a police officer's murder of George Floyd, a black Minneapolis resident.

Boeing agreed in January 2021 to pay $2.5bn to defer prosecution on a single fraud charge related to the crashes. The charge stemmed from misleading federal aviation regulators about the safety of a flight control system on the Max. The system was later implicated in the crashes, five months apart, that killed a combined 346 people.

The justice department returned to the deferred prosecution this year after a door panel blew off a Max at 16,000 feet during a commercial flight. Prosecutors argued Boeing failed to live up to the terms of its earlier agreement.

The company plead guilty in July and agreed to the appointment of a corporate monitor, but victims' families challenged both Boeing and prosecutors over the monitor's role and selection.

O'Connor said that magnitude of the case against Boeing demands "that the public is confident this monitor selection is done based solely on competency. The parties' DEI efforts only serve to undermine this confidence".

O'Connor also said that, if Boeing has violated the 2021 deferred prosecution agreement, then "the government's attempt to ensure compliance has failed", and the court, rather than prosecutors, should have a greater role in selecting and overseeing Boeing's corporate monitor.

Boeing and prosecutors have 30 days to confer and update the court on how they plan to proceed.

Families of the crash victims had opposed the DEI considerations and asked O'Connor to block the deal worked out this summer, saying it was too lenient towards the company. Lawyers for the victim families hailed the ruling as a victory on Thursday.

Erin Applebaum, one of the lawyers representing the families, called the ruling "an excellent decision", and her clients "anticipate a significant renegotiation of the plea deal that incorporates terms truly commensurate with the gravity of Boeing's crimes".

Bloomberg: Boeing Plea Deal Over Fatal 737 Crashes Rejected by Judge *by Madlin Mekelburg*
A federal judge rejected Boeing Co.'s plea deal that sought to let the planemaker avoid criminal prosecution over to two fatal 737 Max crashes, in a surprise twist that threatens to prolong the company's recovery from past scandals.

US District Judge Reed O'Connor sided with family members of people killed during the crashes, who urged him to reject the agreement. O'Connor said provisions in the proposed settlement would improperly require race to be considered in the hiring of an independent monitor and that his role in making sure Boeing abides by the deal would be minimized.

"These provisions are inappropriate and against the public interest," O'Connor said in his ruling Thursday.

The judge asked both sides to confer and decide on the next steps, which could include revising the plea agreement to address the concerns raised.

A representative for Boeing didn't immediately comment on the ruling.

The decision marks a fresh setback for Boeing's push to get back on track after a year of crisis that began when a door-sized panel blew off an airborne 737 Max in early January. The near-catastrophe led to revelations of poor quality controls inside Boeing's factories, increased scrutiny from regulators and customers and a management shakeup that included the ouster of the company's chief executive officer.

The company's shares were down less than 1% as of 1:44 p.m. in New York. The stock has lost about 39% this year, the biggest decline in the Dow Jones Industrial Average.

Read More: Boeing's Guilty Plea Rejection More Headline Risk Than Monetary

Family members of crash victims have fought for years to get harsher penalties following the crashes of Lion Air Flight 610 in October 2018 and Ethiopian Airlines Flight 302 in March 2019. Both fatal accidents were linked to a flawed flight control system.

Earlier this year, Boeing had agreed with the US Justice Department to plead guilty to criminal conspiracy, pay a fine and install an independent corporate monitor. Plus, the company would have been required to spend at least $455 million to bolster its compliance and safety programs.

In rejecting the plea deal, O'Connor cited provisions in the agreement related to the selection of the independent monitor, including language directing prosecutors to consider diversity, equity and inclusion policies. He also took issue with requirements that the monitor answer to the government, rather than to the court.

Shortly after the door blowout on an Alaska Air 737 Max jet in January, the Justice Department scuttled the company's deferred prosecution agreement reached years earlier over the Lion Air and Ethiopian Airlines crashes. The department recommended criminal charges, citing Boeing's failure to live up to its promises. That led to the plea deal.

The judge said Boeing has been under the government's supervision for three years, during which the company was found to have breached the deferred prosecution agreement.

"It is fair to say the Government's attempt to ensure compliance has failed," O'Connor said. "At this point, the public interest requires the Court to step in. Marginalizing the Court in the selection and

monitoring of the independent monitor as the plea agreement does undermines public confidence in Boeing's probation, fails to promote respect for the law, and is therefore not in the public interest."

Victims' Families
Erin Applebaum, a partner at Kreindler & Kreindler LLP who represents some relatives of the crash victims, said the families hope the judge's rejection of the plea deal puts an end to the "kid-glove treatment of Boeing" by the government.

"We look forward to a dramatic renegotiation of the plea deal and the inclusion of new terms that adequately reflect the magnitude of Boeing's crimes," she said in a statement.

The judge's rejection of the proposed deal comes months after he made an unusual request for both parties to explain language in the deal directing the DOJ to consider diversity and inclusion when selecting an independent monitor. The government defended it as a reflection of longstanding practice at the agency.

O'Connor said the response from the government only heightened his concerns that race would likely be a key factor for the government in selecting a monitor, going so far as to suggest that he is not convinced the government "will not act in a non-discriminatory manner" in making such a decision.

He also questioned how Boeing might apply the diversity and inclusion requirement. Under the plea agreement, the company would have had the ability to reject one of six monitor candidates selected by the government. O'Connor said he was concerned the company could use the diversity clause to eliminate a candidate "in a discriminatory manner and with racial considerations."

Paul Cassell, one of the lawyers representing family members, said O'Connor's decision is an important victory in their efforts to hold the company accountable.

"Judge O'Connor has recognized that this was a cozy deal between the Government and Boeing that failed to focus on the overriding concerns — holding Boeing accountable for its deadly crime and ensuring that nothing like this happens again in the future," Cassell said in a statement. "This order should lead to a significant renegotiation of the plea deal to reflect the deaths Boeing caused and put in place proper remedies for the future."

The case is US v. Boeing, 21-cr-005 , US District Court, Northern District of Texas (Fort Worth).

International Business Times: Judge Rejects Boeing's Plea Deal Connected To Deadly 737 MAX Crashes
by Mark Moore
A federal judge in Texas rejected a deal between Boeing and the U.S. government that would have allowed the aerospace company to plead guilty to a felony conspiracy charge and pay a fine for misleading the Federal Aviation Administrator about two fatal 737 Max jetliner crashes, according to a report.

In July Boeing agreed to plead to a conspiracy to defraud the U.S. charge and up to $487 million in fines—far less than the $24.8 billion the families of the crashes sought, CNN reported.

U.S. District Court Judge Reed O'Connor balked at the process to select an independent monitor that the deal required to oversee safety and quality improvement at Boeing.

He said that diversity, inclusion and equity policies at the Justice Department and at Boeing could play a factor in picking the monitor.

"The Court is not convinced in light of the foregoing that the government will not choose a monitor without race-based considerations and thus will not act in a nondiscriminatory manner," he wrote in the opinion.

"In a case of this magnitude, it is in the utmost interest of justice that the public is confident this monitor selection is done based solely on competency," he said.

He gave both sides 30 days to respond to him about how they would like to proceed.

Yahoo Finance: Judge cites DEI concerns in rejecting Boeing's plea deal with DOJ *by Alexis Keenan*
A federal judge rejected a criminal fraud plea deal reached between Boeing (BA) and the Justice Department, citing provisions in the agreement that included race as a condition in selecting a corporate monitor "inappropriate" and "against the public interest."

The decision is major setback for Boeing as it tries to put some legal troubles behind it while facing challenges on numerous fronts.

Its stock fell roughly 1% Thursday.

The decision comes as diversity, equity and inclusion (DEI) has picked up momentum as a political issue in 2024, with critics targeting what they describe as "woke" policies at big companies.

Some major corporations, including Walmart (WMT), have backed away from their DEI initiatives or policies following public and shareholder pressure to do so.

The plea deal would have insulated Boeing from facing a criminal trial on the government's allegation that the jet maker misled FAA officials before two 737 Max fatal crashes last decade killed 346 people.

But the US judge for the Northern District of Texas, Reed O'Connor, said Thursday in an order that the deal was insufficient in part because of its terms that govern the selection and conditions for a corporate monitor tasked with protecting against future fraud.

O'Connor, a former President George W. Bush appointee, has a track record of siding with conservative litigants against the government, according to reporting from Reuters.

The judge said the crash victims' families opposed part of the deal that required race as a consideration in the selection of the corporate monitor, as well as a section that omitted Boeing's compliance with the monitor's anti-fraud recommendations as a condition of its probation.

Boeing, the judge said, presented "shifting and contradictory explanations" of its policies. On one hand, it told the court that it would not compromise merit or talent to achieve DEI goals.

On the other, he said, Boeing's public website until recently touted racial race-based quotas and commitments to DEI-contingent executive compensation.

"Policies like Boeing's have been considered evidence of discrimination in Title VII cases," O'Connor wrote in his the order, and went on to express concern that Boeing would apply race considerations to its role in the monitor selection process.

O'Connor explained that the court was also not convinced that the government would steer clear of applying race-based, discriminatory considerations, in its role in selecting a monitor.

"In a case of this magnitude, it is in the utmost interest of justice that the public is confident this monitor selection is done based solely on competency," he said.

"The parties' DEI efforts only serve to undermine this confidence in the government and Boeing's ethics and anti-fraud efforts. Accordingly, the diversity-and-inclusion provision renders the plea agreement against the public interest."

The agreement also fell short, O'Conor said, because under its terms the DOJ, rather than the court and its probation department, is the ultimate arbiter of Boeing's compliance with its monitor.

"They argue, in essence, that the government has monitored Boeing since the case was filed and yet failed to ensure Boeing's compliance," O'Connor wrote in his order, explaining that the monitor should instead be selected by and report to the court.

BBC News: Boeing plea deal tied to fatal crashes rejected *by Natalie Sherman*
A Boeing plea deal intended to resolve a case related to two fatal crashes of its planes has been rejected by a US judge.

The plane maker had originally agreed with the US government in July to plead guilty to one count of criminal fraud, face independent monitoring, and pay a $243m (£191m) fine.

However, Judge Reed O'Connor struck down the agreement on Thursday, saying it gave the court too little power over the monitoring process.

Family members of the 346 people killed in the crashes welcomed the ruling, describing the plea deal as a "get-out-of-jail-free card for Boeing".

The Department of Justice said it was reviewing the decision. Boeing did not immediately comment.
In his decision, Judge O'Connor said the government's previous years of overseeing the firm had "failed". "At this point, the public interest requires the Court to step in," he wrote.

He said the proposed agreement did not require Boeing to comply with the monitor's recommendations and gave the company a say in selecting a candidate.

Those issues had also been raised by some families of those killed on the flights, who had criticised it as a "sweetheart" arrangement that did not properly hold the firm to account for the deaths.

Judge O'Connor's also focused on the deal's requirements that race be considered when hiring the monitor, which he said would undermine confidence in the pick.

He said he was concerned with the "shifting and contradictory explanations of how the plea agreement's diversity-and-inclusion provision will... operate".

"In a case of this magnitude, it is in the utmost interest of justice that the public is confident this monitor selection is done based solely on competency," he wrote.

"The parties' DEI efforts only serve to undermine this confidence in the government and Boeing's ethics and anti-fraud efforts."

Ike and Susan Riffel of California, who lost their two sons, Melvin and Bennett, said the judge had done "the right thing" in rejecting the proposed agreement.

"This deal didn't hold anyone accountable for the deaths of 346 people and did nothing to protect the flying public," they said in a statement supplied by their lawyer.

They said they hoped the ruling would pave the way for "real justice".

Boeing and the Department of Justice have 30 days to develop a new plan in response to the ruing.

The plane maker has been struggling to emerge from the shadow cast by two, near-identical crashes of its 737 Max planes in 2018 and 2019.

The aerospace giant was plunged back into crisis in January when a door panel on a new Boeing plane operated by Alaska Airlines blew off soon after take-off.

The incident reignited questions about what Boeing had done to improve its safety and quality record since the accidents, which were tied to the company's flight control system.

The door panel malfunction happened shortly before the end of a three-year period of increased monitoring and reporting.

Boeing had agreed to the monitoring as part of a 2021 plea deal to resolve a charge it had deceived regulators over the flight control system.

In May, the Department of Justice said Boeing had violated the terms of that agreement, opening up the possibility of prosecution.

Instead, the two sides struck another deal, angering families who had hoped to see the company brought to trial.

In the ruling, Judge O'Connor wrote it was "not clear what all" Boeing had done to breach the 2021 agreement.

Nonetheless, he wrote, "taken as true that Boeing breached the [deal], it is fair to say that the government's attempt to ensure compliance has failed".

Erin Appelbaum, partner at Kreindler & Kreindler, which represents some families of those killed on the 2019 Ethiopian Airlines Flight 302, called Thursday's ruling an "excellent decision and a significant victory" for the victims' families.

"We anticipate a significant renegotiation of the plea deal that incorporates terms truly commensurate with the gravity of Boeing's crimes," she said.

"It's time for the [Department of Justice] to end its lenient treatment of Boeing and demand real accountability."